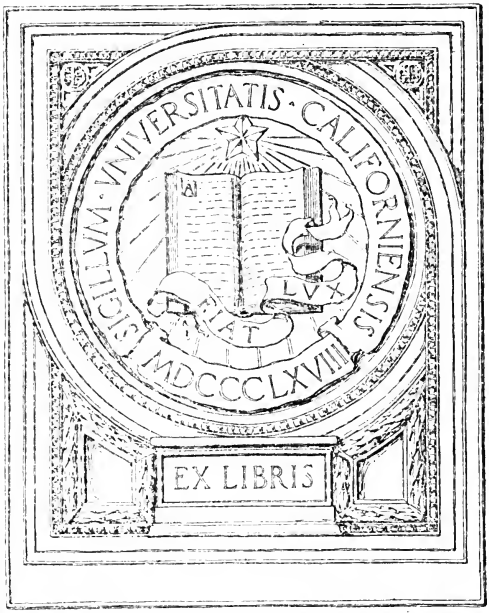
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TAX LIMITATION AND THE GENERAL PROPERTY TAX IN OHIO

By
CLAIR WILCOX

THE OHIO STATE UNIVERSITY
COLUMBUS, OHIO
1922

RATE LIMITATION AND THE GENERAL PROPERTY TAX IN OHIO

A Thesis Presented for the Degree
of Master of Arts in the
Graduate School at the
Ohio State University

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PREFACE

The provisions made for the administration of the general property tax in Ohio have resulted in substantial injustice to some of the citizens of the state and in general dissatisfaction among all of them. If this paper brings to any man a better understanding of the difficulties involved in the proper administration of the tax laws and assists in pointing out a way toward the fairer distribution of the tax burdens of the state its preparation will not have been amiss.

The facts presented in the second chapter concerning the actual practice in the administration of the general property tax were gathered through personal interviews and correspondence with county auditors in all parts of the state. Other material which is presented was obtained in conversations with tax authorities and state officials. Acknowledgement should be made for the assistance afforded the author by the following men: Auditor Bittinger of Ashland County, Auditor Young of Delaware County, Auditor Valentine of Franklin County, Attorney Crist of Delaware, Mr. Edge of the Legislative Reference Bureau, Mr. Forney and Mr. Horn of the State Tax Commission, Mr. Dyer of the Ohio Tax Association, Mr. Laylin of the Attorney General's office, who kindly lcaned his manuscript on The Ohio Tax Situation, Mr. Swiggert of the Department of Public Instruction, Auditor Zangerly of Cuyahoga County and Hon. Vic Donahey, former auditor of the state. Special acknowledgement must be made to Prof. Henry F. Walradt of The Ohio State University, who read and criticized completed manuscript, and to Miss Florence Chapman of Ashland, Ohio, who assisted in its revision.

C. W.

Delaware, Ohio, May 3, 1922.

TABLE OF CONTENTS

ILLUSTRATIVE TABLES

RATE LIMITATION AND THE GENERAL PROPERTY TAX IN OHIO

CHAPTER I—INTRODUCTION

Section 1—The Place of the General Property Tax in the American Tax System

The use of the total amount of the possessions of an individual as the base for taxation originated in purely agricultural communities where it was not unsuited to prevailing economic conditions. It was the first attempt made to secure an equitable distribution of tax burdens, and at one time its use was well nigh universal. With the development of industry and commerce, this general property tax ceased to comply with the requirements of justice. It became, in effect, a tax upon real estate. Everywhere but in America it has been divided into a number of subordinate property taxes, made a subordinate member of another system, or entirely abandoned. In America, alone, it remains as the largest single source of local revenues, used in practically every district, town, city and state of the union. In 1919, 50.6% of the state revenues in the United States were derived from this source.[1] In the same year the American cities with populations of 30,000 and over, secured from it 66% of their funds.[2] In 1913 it supplied American counties with 76.4% of their income and incorporated places of 2,500 population and over with 61.1%.[3] In spite of its general abandonment abroad, in spite of the development of new revenue sources in this country, the general property tax still stands as the most important single source of income for the maintenance of state and local activities.

Section 2—The Scientific Estimate of the General Property Tax

The general property tax meets with the almost universal condemnation of political economists. It is condemned in theory because it presupposes the existence of an ascertainable general mass of property, while property in contemporary society is really a composite of inseparable, but widely differentiated elements. It conforms with neither of the accepted bases for taxation; that taxes should be levied according to the benefits received by taxpayers from government activity or that the levy should be according to their taxpaying abilities. The man with little property who sends his six children to the public schools derives great benefit from the expenditure of government funds to which he makes no contribution. His bachelor, landowning friend who spends much of his time outside the state, makes a large contribution without receiving commensurate benefits in return. The tax is at fault, also, in its assumption that the possession of property is a true criterion of taxpaying ability. For with the growing diversification in the types of possessions included within the term, this has ceased to be the case. The landowner may derive a very small income from his thousand dollar tract, while the stockholder's thousand dollar shares may yield him a handsome return. Similar amounts of investment in metropolitan and in rural real estate

(1) U. S., Bureau of the Census, Financial Statistics of States, 1919, p. 33.
(2) Ibid, Financial Statistics of Cities, 1919, p. 55.
(3) Ibid, Report on Wealth, Debt and Taxation, 1913, p. 298, 658.

may yield vastly different revenues. Equal amounts of property may be very unequally productive, and it is the productivity, rather than the total amount, of this property which affords a fair index of the ability of its owners to contribute to the public revenues. The unfairness of the tax is increased by its total inability to reach incomes arising from personal exertion, which have no basis in property ownership.

The property tax offends as badly in practice as in theory. Inequalities in assessment procedure have resulted in a marked lack of uniformity in the burden which is placed on different taxpayers. The failure of the tax to reach personal property has provided a great incentive to increase the dishonesty of taxpayers generally and has placed the main burden of the tax on the holders of real estate and the conscientious or foolish holders of personalty, allowing the unrighteous to escape. This widespread evasion has resulted in a tax rate which is, in effect, regressive, since it places the heaviest burdens often on those types of property which are least able to bear them. And, finally, the inclusion of securities and credits in the total of taxable property has brought about a double taxation which causes the burden of one man to be twice as great as that of his neighbor. The indictment of the tax, as it exists in our country today is well summarized in the words of Professor Seligman:

> "Practically the general property tax as actually administered is, beyond all doubt, one of the worst taxes known in the civilized world. Because of its attempt to tax intangible as well as tangible things it sins against the cardinal rules of uniformity, of equality and of universality of taxation. It puts a premium on dishonesty and debauches the public conscience; it reduces deception to a system and makes a science of knavery; it presses hardest on those least able to pay; it imposes double taxation on one man and grants entire immunity to the next. In short, the general property tax is so flagrantly inequitable, that its retention can be explained only through ignorance or inertia. It is the cause of such crying injustice that its alteration or its abolition must become the battlecry of every statesman and reformer."[1]

SECTION 3—THE IMPORTANCE OF THE GENERAL PROPERTY TAX IN THE OHIO TAX SYSTEM

In the state of Ohio the General Property Tax is the source from which the funds are derived which carry on the major portion of the necessary activities of every county, school district, village, township and city. By the means of this tax there was raised in 1921 over two hundred and twenty million dollars, more than ninety-two millions of which went to carry on the work of the common school system. The cities and villages in the state derived from this source nearly sixty millions; the counties over forty-three millions. Only eleven million dollars, but five percent of the total amount provided by the tax, went to finance the activities of the state government, this sum being spend for school purposes, buildings and the improvement of the state highways.

(1) Seligman, E. R. A., Essays in Taxation, Ninth Edition, p. 62.

During the second half of the nineteenth century the state, as well as its subdivisions, drew its main support from this source. The administrative system was decentralized and weak and serious inequalities came to exist in the distribution of the state tax over the various counties. A solution of the difficulty appeared in the plan of separating the state and local revenues. To this end, the property tax was left to the local units and the state tax was considerably reduced and finally abandoned as a source of revenue for general state purposes. In the place of the revenue so relinquished, the state built up other sources of supply, including excise taxes on corporations, the inheritance tax, and the like. Table I shows how the property tax diminished in importance as a source of revenue for the state government during a period when the expenditures of the state were rapidly increasing. Table II gives the receipts of the state government in the year 1921, showing the relative unimportance, in that year, of the property tax as a source of state revenue.

TABLE I(1)—DIMINISHING IMPORTANCE OF THE PROPERTY TAX AS A SOURCE OF STATE REVENUE

Year	State Tax Rate (mills)	Tax Collected by Property Tax Levy (thousands)	State Revenues All other sources (thousands)	Percentage of State Revenue from General Property Tax
1901	2.90	5,316	2,719	67
1902	2.89	5,698	4,157	58
1903	1.35	2,805	4,912	39
1904	1.35	2,833	5,594	33
1905	1.35	2,883	6,414	31
1906	1.35	2,669	7,116	27
1907	1.345	3,008	7,883	26
1908	1.345	3,061	8,575	26
1909	1.345	3,201	8,080	28
1910	1.345	3,171	8,395	27
1911	1.345	3,323	9,713	26
1912	.451	2,758	11,278	19
1913	.451	2,878	12,700	18
1914	.961	6,272	14,272	30
1915	.45	1,689	9,851	14
1916	.45	3,238	15,937	15
1917	.45	3,351	17,559	16
1918	.45	3,633	20,061	15
1919	.65(2)	3,898	21,578	15
1920	2.30(3)	5,170	26,421	16
1921	1.025(4)	15,038(6)	35,356(7)	29
1922	1.525(5)	.....	.....	..

This table shows an increasing dependence by the state up to the present year up on revenue sources other than the property tax. The sudden increase in the state tax rate in 1920 was due to an increase in the state common school levy from .055 mills to 1.8 mills. This state school levy (Educational Equalization Fund) was reduced to .15 mills in 1920.

(1) Based upon the Auditor of State Report, 1921, p. 165.

(2), (3), (4) Figures from the State Auditor's Notice of State Tax Levy. These rates are introduced here for consistency. They differ from the ones given in the Auditor of State Report because of the allowance made there for the change in 1915 which made the fiscal year end June 30th instead of November 15th.

(5) Estimated rate, not final, furnished by State Auditor's Office.

(6), (7) Based upon Statement II, Auditor of State Report.

TABLE II—SOURCES OF STATE REVENUE IN 1921

Inheritance Tax		$ 1,184,805.64
Insurance Fees		2,919,689.24
Automobile Licenses		2,928,476.90
Corporation Excise Taxes		11,043,653.01
General Property Tax		15,038,192.07
(Including levies for		
Common Schools	$9,735,213.12	
Roads	4,877,075.83	
Other sources: (miscellaneous fees, income of state institutions, interest on deposits and misc. receipts)		17,279,448.05
Grand Total Receipts		$50,394,364.91

(Based upon Auditor of State Report, 1921, Statement No. 2.)

In the year 1920, less than 17% of the total receipts of the state government were derived from the general property tax. In 1921, the following year, only $1.91 of the $38.20 average per capita tax of the state went for the activities of the central government. The suggestion is naturally made, and often, that the state government should entirely drop the use of the property levy as a source of funds and derive its entire income from those sources which already furnish over eighty per cent of it. This plan is unworkable for two reasons. First, the existing revenue sources are not sufficiently elastic solely to care for necessary state activities. Second, the revenue which they yield would be inadequate. The inelasticity of existing sources is easily seen. The yield of corporation taxes depends upon the volume of their business, their amount of capitalization and the rate of levy. The first two factors are beyond the power of state control. Repeated use of rate changes to alter the state income would meet with immediate and effective opposition on the part of business interests. The yield of the inheritance tax in any one year is extremely uncertain and cannot be controlled to meet state revenue needs. The income from fees, fines, licenses, interest and the like is similarly insusceptible of control. These revenues are not only inelastic, but also inadequate. As a matter of fact, it is rarely that the receipts of the central government exceed its disbursements.(1) If the spending authorities were in any year to make use of all the funds appropriated to them by the legislature, the state government would straightway go bankrupt. In 1920 the legislature appropriated over fifty-six million dollars for state activities. The actual receipts of the government that year only slightly exceeded twenty-nine millions.(2) The state lived within its income only by the virtue of the non-utilization of appropriations. Dependence upon lapsed appropriations scarcely makes adequate provision to meet the increasing revenue needs of the state.

The inevitable conclusion is, that in the absence of new revenue sources, the general property tax must be retained as a means of supplying adequate funds to the state government as well as to the political subdivisions of that government.

(1) Report of The Special Joint Taxation Committee of the 83d Ohio Gen. Assby., p. 18.
(2) Auditor of State Report, Ohio, 1920, p. 34.

SECTION 4—THE INCREASING COST OF GOVERNMENT IN OHIO

One of the outsanding facts in the development of America's social and economic order has been the collective assumption of the necessary acitivities of life through the agency of the state. As our industrial civilization has developed there has been a constantly increasing pressure upon the central government to assume more and more functions for the benefit of the citizens who compose it. The state is asked to provide for the education of the child through his grammar and high school training and even on through university work and technical specialization. The development of motor transportation has necessitated enormously increased expenditures for the maintenance of highways. People are demanding beautiful public buildings, ornamental bridges, libraries, parks and other refinements of civilization. Either in their capacity as producers or in that of consumers, they are constantly calling on the legislature for protection against exploitation. The result of this pressure has been the passage of a great body of legislation, providing for workmen's compensation, mothers' pensions, and the like. With every increase in the activities assumed by the people in their collective organization, the government, must necessarily go a corresponding increase in the funds, which they are called upon to supply to support that organization. During the past few years we have, in addition, witnessed a marked rise in the general level of prices, an increase which affected the cost of state, school and municipal activities just as it affected the necessary expenditures of the man in the street. It is this increase in government expenditures, necessitated by the assumption of additional activities and by the general rise in the price level, which has made the problem of state and local taxation a particularly pressing one at the present time.

TABLE III—INCREASING COST OF GOVERNMENT ACTIVITIES IN OHIO

Tax Levied For	1920	1913	Increase	Per cent Increase
County	43,410,809	$18,232,387	$ 25,178,422	138.10
Townships	12,708,894	4,963,080	7,745,814	156.92
Schools	72,129,937	25,980,162	46,149,775	177.63
Cities and Villages..	52,543,684	23,904,135	28,639,549	119.81
Totals	$180,793,324	$73,079,764	$107,713,560	147.39

(From the Report of the Tax Commission of Ohio, 1920, p. 15.)

TABLE IV—INCREASING COST OF CITY ACTIVITIES IN OHIO

(Total Governmental Cost Payments in the Nine Ohio Cities Which Had a Population of 30,000 or More in 1909.)

Class of Outlay	1900	1915	1918	Increase 1918 over 1909 Amount	%
General Government	$ 3,102,812	$ 3,565,425	$ 4,088,615	$ 985,803	31.8
Protection to person and property	5,316,816	5,778,785	6,742,443	1,425,627	26.8
Health Conservation	326,811	611,790	1,085,211	758,400	232.6
Sanitation	1,660,878	2,407,496	2,803,529	1,142,651	68.8
Highways	2,512,427	3,922,803	3,843,123	1,330,696	52.9
Charities, Hospitals, Corrections	1,414,417	1,652,869	2,133,659	719,232	58.8
Education	7,486,409	10,486,258	12,181,950	4,695,541	62.7
Recreation	475,710	758,125	650,755	175,045	37.0
Miscellaneous	229,663	197,152	288,704	59,041	25.7
General	.....	902,058	1,099,233	.....	.....
Total	$22,525,953	$30,282,761	$34,937,222		

(From the Report of the Special Joint Taxation Committee of the 83d General Assembly, p. 22.)

TABLE V—INCREASING COST OF SCHOOL ACTIVITIES IN OHIO

Year	Total Expenditure of Thirteen Districts
1914-15	$ 91,624.42
1915-16	98,471.89
1916-17	115,710.11
1917-18	130,843.55
1918-19	133,831.14
1919-20	161,120.90
1920-21	211,748.49

Only thirteen of the twenty-five hundred school districts in the state are represented in this computation. These were the only ones out of eighty which were examined that were found to have made no changes in their boundaries or in their capital outlay during this period. If the necessary expenditures of these districts for the maintenance of unextended activities presents such a marked increase it is not unreasonable to assume that the figures given represent a situation which is general in the state.

The School Districts taken were:

Liberty Twp. Rural S. D., Liberty Twp., Highland Co.
Margaretta S. D., Margaretta Twp., Erie Co.
Madison Twp. S. D., Madison Twp., Scioto Co.
Lakeville S. D., Washington Twp., Holmes Co.
Benton S. D., Benton Twp., Ottawa Co.

Adams S. D., Adams Twp., Champaign Co.
Fayette S. D., Fayette Twp., Fulton Co.
Fox Twp. S. D., Fox Twp., Carroll Co.
Adams Twp. S. D., Adams S. D., Coshocton Co.
Columbia Special S. D. No. 2, Columbia Twp., Lorain Co.
Milton, S. D., Ashland Co.
Ruggles, S. D., Ashland Co.
Green Twp. S. D., Green Twp., Ashland Co.

During the seven years from 1913 to 1920, the total expenditures of the state of Ohio underwent (as is shown in Table III) an increase of nearly 150%. In nine years, from 1909 to 1918, the expenditures of nine Ohio cities increased from $22,574,763 to $34,937,222, an addition of 55.6%. This increase is shown in detail in Table IV, which was prepared by the special taxation committee of the 83d General Assembly. In the words of their report:

> "Such a table reveals the presence in our municipal communities of a very potent factor which is everywhere operating to increase public expenditure. This factor is the effort toward a higher level of well being. The percentage increases show that the older governmental activities have expanded least rapidly of all the forms of public outlay. The greatest relative increases have occurred in those forms of public activity which now count much in the promotion of the general well being, such as health conservation, sanitation, education, improved highways, charitable and hospital relief and recreation. Enforced retrenchment in public outlays now means the reduction of these beneficent social activities and an inevitable retrogression toward a lower plane of civilization."(1)

This increase in municipal expenditures was attributed by the committee not to the wastefulness in the administration of city activities, but to the increase in population, in governmental functions and in the price level. In consequence the additional tax charges came inevitably, in spite of the opposition of taxpayers, the legislative restrictions on tax levies and the pruning of budgets practiced by budget officials.

The cost of school operation and maintenance has increased even more rapidly. The total local taxes for school purposes rose nearly 72% from 1913 to 1918. The total cost of education in the nine largest cities of the state increased 62% from 1909 to 1918.(2) Table V shows the increase in the necessary expenditures of thirteen school districts in Ohio over a period of seven years None of these districts had changed their boundaries or increased their capital outlay during that period, yet the 1920-21 disbursements showed an increase over those for 1914-15 of 231%. In some of the individual districts there was a growth in expenditures in this period running as high as 400%. In the case of Fayette Village S. D., Fulton Co., expenditures increased over 220% while the average daily school attendance decreased more than 13%.

(1) Report of the Special Joint Taxation Committee of the 83d General Assembly, p. 22.
(2) Ibid, p. 26.

There are many reasons for this rapid advance in the cost of the common schools. The total enrollment has been growing steadily, that for grade schools being 266.9% greater in 1918 than in 1890.(1) A broadening of high school curriculae has necessitated further equipment and additional instructional staffs. The salaries paid to teachers have necessarily increased in order to meet the competition of other fields of employment. The imposition of higher educational qualifications for teachers has made this increase an inevitable necessity. The progress toward the centralization of rural schools and the inauguration of bus transportation for their pupils, the construction of new and modern buildings, made for permanent occupancy according to the safety and sanitary standards set by law, made imposing and well situated to satisfy local pride, all have contributed to the necessary increase of the tax burden.

There is scant possibility that these expenditures can be decreased to any considerable extent. Maintenance of existing educational activities is imperative if Ohio is to fulfill her duty to her citizens. 41.2% of all the men examined under the selective draft in Ohio were illiterate. 28% of these were negroes, the remaining 13.2% being white. In Ross County 1,100 men were rejected for this cause.(2) These figures scarcely indicate that common school education in the state has reached its limits in extension. In addition to this, further expenditures must be made to provide for the extended activities of those institutions of higher learning which are supported by the state government. New buildings and equipment, larger operating revenues and higher salaries must be provided to keep the universities of the state operating at a high degree of efficiency. These further expenditures can only be met by increases in the total amount of funds provided for by taxation. The citizens of Ohio cannot have the advantages of the essential public enterprises which they demand without paying the price. It is the question as to the manner in which this payment shall be made which gives rise to all the perplexing problems of tax legislation and administration.

(1) Report of the Special Joint Taxation Committee of the 83d General Assembly, p. 25.
(2) Ibid, p. 26.

CHAPTER II—ADMINISTRATION OF THE GENERAL PROPERTY TAX IN OHIO

Section 1—Constitutional Provisions

The first constitution of the state of Ohio, that of the year 1802, contained no definite provisions as to taxation. One of the most important reasons for the calling of the second constitutional convention in 1851 was to incorporate in that document requirements for a system of taxation which would be uniform and equitable throughout the state.(1) Article XII, Section 2 of the new constitution gave expression to the provision which has come to be known as "The Uniform Rule" and remains to the present day the basis of the Ohio tax system. It declares that

> "Laws shall be passed, taxing by a uniform rule, all moneys, credits, investments in bonds, stocks, joint stock companies or otherwise, and also all real and personal property, according to its true value in money."

Specific exception from this rule is granted to burying grounds, public buildings, church property, used exclusively for public worship, and all educational and charitable institutions. Section 6 of the same Article prohibits the state from contracting debt for the purpose of internal improvement. The political subdivisions of the state, however, are not so limited. Article XIII, Section 4 of the same document provided that "The property of corporations.....shall forever be subject to taxation the same as the property of individuals," and the sixth Section of this Article directed the general assembly to "provide for the organization of cities and incorporated villages by general laws and restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent the abuse of such power." These requirements stand in the present constitution. It is in pursuance of the provisions of the last section that the present statutes limiting the rate of taxation and restricting the borrowing power of the political subdivisions of the state were passed.

Section 2—Property Subject to the Tax

The laws passed in pursuance of these constitutional provisions require in the list of taxable property the inclusion of all real property, all moneys, credits, investments and other personal property, in the possession of individuals or corporations within the state.(2) Specific exemptions have been granted among others to state property, federal property, court houses, jails, armories, market houses, public squares, city waterworks, children's homes, churches, colleges, municipal universities, school houses and all other property of any board of education, graveyards and lands held for the support of the poor.(3) In addition to

(1) Auditor's Annual Report, Ohio, 1920, p. 6.
(2) Ohio General Code. Sec. 5328.
(3) G. C. Sec. 5350 to 5365 inc.

these exemptions, it is provided that citizens need not return for taxation as personal property, shares of stock in Ohio corporations or in corporations, three-fourths of whose real and personal property is taxed as such in the state.(1) Shares of stock in all other foreign corporations must, however, be returned. The only general exemption granted to all individuals under the Ohio laws is that of one hundred dollars in value, of personal property, a minimum which may be held by all citizens, free from taxation.(2)

SECTION 3—THE DETERMINATION OF THE BASE

The administration of every tax involves three processes. The first of these is the determination of the total amount in quantity or value of the property or income, a portion of which is to be taken by taxation, that is, the determination of the base of the tax. This total or base is determined by the process of assessment. With assessment completed, the next step necessary is the levy, which is the process of ascertaining the portion of the base which it will be necessary to take in order to yield an adequate revenue to meet the expenses of government. With the base determined and the rate ascertained and published, the administration is completed by the third step—the collection of the determined amount from the individual taxpayers.

PART A—THE LAW AS TO ASSESSMENT(3)—

The county is the unit for the assessment of property in Ohio; the county auditor, the chief assessing officer. It is his duty annually to prepare an alphabetical list of the names of the individuals and business concerns within his county, classified according to the political subdivision in which they reside, giving the description and value of the real estate which they possess and, on a separate list, the value of their personal property. This list is made out in duplicate, one copy constituting the auditor's tax list, the other, the tax duplicate which is held by the treasurer of the county to assist him in his work of collection. If the auditor finds that the property in his county is listed on the duplicate at its true value in money, he enters the existing valuation on the tax list as the base for taxation in the following year. He is required to make an annual report to the commissioners of his county, stating whether he does or does not find the property to be listed at full value. The commissioners then have the power to confirm his finding, modify it or entirely set it aside. If he finds that property is listed at less than its full value in money he is required by law to indicate this fact to this board which may order a revaluation.(4) If he finds that property is listed at its true value, the assessment process consists merely in changing the amounts on the tax list opposite those properties which have changed in value, through the addition of new structures or other changes. The law requires individuals erecting new buildings of a value exceeding two hundred dollars to report this fact to the auditor, or suffer

(1) G. C. Sec. 5372,
(2) G. C. Sec. 5360.
(3) See Tax Laws of Ohio. Issued by the Tax Commission, 1920, Ch. 10, 13, 15 and 34.
(4) G. C. Sec. 5548.

a penalty of an addition of fifty per cent of the value of the structure, when discovered, to the total amount of their taxable property.

The actual determination of the value of real estate is in the hands of assessors, locally elected in small assessment districts for two year terms. These men take oath and give bond for the proper performance of their duty and are removable by the county auditor for cause. It is their duty to value property, under the direction of the auditor, administer oaths to individuals making property returns and annually to report to the auditor the value and ownership of all listed property. For this service they receive a compensation of four dollars for every eight-hour day that they are employed.

The local assessor is concerned only with the appraisal of the real property of individuals. All corporate returns and all personal property returns are made directly to the office of the county auditor. Each taxpayer is required to list all his personal property at its full value on blanks supplied to him by the county auditor for that purpose. Such returns must be made not only by individuals, but also by merchants and manufacturers for the full amount of their machinery, equipment and stock on hand at the tax listing date. Taxpayers failing to list their property are denied the one hundred dollar exemption otherwise granted them by law and are, in addition, liable to a penalty of the increase of fifty per cent in the total value of their property for taxation. Upon the submission of these returns, taxpayers are required to take an oath as to the truth of the information given. This gives the county he power to initiate legal prosecution for perjury in the case of an under-return. If the auditor has reason to suspect that an under-return has been made, he may send an assessor to make a revaluation of the property, upon giving proper notification to the person concerned. With the assistance of the assessor he inspects the list and adds any property which has been omitted or understated. His power extends only to the increase in the amount of the return. He can in no case diminish it without the written assent of the state auditor.(1) That he may properly fulfill this function he is given the power to summon persons for examination and compel the production of books and papers in evidence. Any person refusing to appear when summoned in order to give testimony is subject to proceedings in contempt of court.

For the protection of taxpayers against unjust or unequal assessments a County Board of Revision has been created. This board consists of the president of the county commissioners, the county treasurer and the auditor, who serves as its secretary. Taxpayers wishing to enter complaint as to the total amount at which their property is listed may appeal to the auditor, who will present their case to this body. The board hears complaints, calls and examines persons under oath and increases or decreases any valuation or corrects any assessment complained of, but may not make an increase without giving due notice to the person concerned. When this board has completed its work it certifies its decisions to the auditor, who makes any changes necessary, in consequence of their action, on the tax list and advertises the list as open to public inspection. Taxpayers who are dissatisfied with the finding of the Board

(1) G. C. Sec. 5401.

of Revision still have the right to appeal to the State Tax Commission, which, in the case of a new decision, certifies its action to the auditor for the correction of the tax list.

The State Tax Commission, created in 1910, consists of three members, appointed by the governor and removable by him. This body is in continuous session, its members devoting their entire time to their office. It is charged with the administration of the corporation and inheritance taxes of the state and the supervision and direction of the assessment of real and personal property under the general property tax. That it may properly fulfill its function of revising the assessment of property upon an appeal from the decision of a county board of revision, it is given the power to inspect books, accounts, records and subpoena and examine individuals under oath. It is required to prescribe uniform rules and regulations for the valuation of property and for the levy and collection of taxes, and to provide proper blanks and forms for the use of county auditors, treasurers and boards of revision in their administration of the property tax. The Commission is annually to examine all tax lists as submitted to it by the county auditors and, if necessary, may increase their aggregate amounts in order to bring them up to their true value in money. It may then specify to the county auditors a certain amount or rate per cent which must be added to their tax lists in order to bring their property up to its full value.(1) Since 1919, it has had the power upon its own initiative to order the county auditor to make a reappraisal in any political subdivision in the state. The law also provides that a reappraisal of property within any subdivision may be required of the auditor following the receipt of a petition from twenty-five taxpayers, a board of township trustees, or a village or city council.(2)

PART B—THE PRACTICE IN ASSESSMENT—

In many particulars the actual practice in the assessment of property in Ohio seems to differ more or less radically from the procedure contemplated and provided for by law. Sixty of the counties in 1920 had had no reappraisal of real estate since the last general appraisal in the state, which took place in the year 1910.(3) At that time all the real property in the state underwent a uniform appraisement and was probably placed on the tax list at nearly its full value. In 1914-15 there was a graduated increase or decrease in the total valuation of many counties, but no thorough reassessment. A few counties reappraised their realty in 1918-19; a few in 1920, but the vast majority of them are still levying taxes on the basis of the 1910 appraisement, in spite of the great change in individual values and in the general price level which has taken place since that time. The result is a great inequality in the percentage of full value at which realty is listed for taxation in different counties and even in different parts of the same county.

In those counties where the property is listed at only a fraction of its true value in money the law would require the auditor to certify this fact to the county commissioners, whereupon a reassessment would take

(1) G. C. Sec. 5613.
(2) G. C. Sec. 5548.
(3) Report of the Tax Commission, Ohio, 1920, p. 6.

place. But there is a very real reason why the majority of the counties do not desire a reappraisement. The share of the property tax which goes to the state government (eleven million dollars in 1921) is paid by the counties in proportion to the total amount of their property as listed for taxation. When some counties have their property listed at only a fraction of its true value, the county which places its property on the tax list at one hundred per cent value, must pay more than its fair share of the state tax. A county auditor confronted by this situation does one of three things. He either certifies to the commissioners that the property in their county is on the tax list at its true value in money, or he certifies that it is not listed at full value and advises against a reappraisal, (1) or he makes the latter certification and, in accordance with the law, urges a reassessment. His finding usually is based on a comparison of the list value of property with the actual amount at which transfers are taking place in his county. In many cases the submission of this report is a mere form, the commissioners accepting it without examination as a matter of course. In other cases, however, the commissioners do examine and set aside the finding of the auditor. In Franklin County, in 1918-19, the auditor certified a valuation lower than one hundred percent, advising against a reassessment, but the commissioners ordered a reappraisal, which he consequently administered. In 1922 the auditor of Perry County made a similar finding, urging a revaluation. His finding was arbitrarily set aside by the county commissioners without investigation. This practice is not infrequent and as long as the present inequalities in valuation obtain, it may be expected to continue.

Apparently the power of perjury prosecution given to the county authorities under the law in 1917 in order to enforce the full return of personal property has actually resulted in some increase in these returns. From 1916 to 1920 the total value of real estate on the tax duplicate of Ohio increased from $4,850,000,000 to $6,300,000,000 or about 30%, while the total value of personalty returned increased from $2,800,000,000 to $4,330,000,000, or nearly 50%.(2) The personalty returns of individuals jumped from $800,000,000 to $1,500,000,000, or 77%, while those of corporations showed an increase from $2,000,000,000 to $2,700,000,000, or but 34%.(3) This would seem to indicate that the increase in personal property returns was largely due to the influence of the law on the individual taxpayer, rather than to increases in the assessed value of public utilities which are included in the personal property figures. Perjury prosecutions, however, have been rare, almost non-existent, due to the widespread evasion by personal property holders and the dissatisfaction and expense which would be involved in legal action of this sort. If the provision has caused a larger return of personal property for taxation, it is because of

(1) The report of the auditor of Lorain County to his commissioners, January 17, 1922, says: "I do hereby find that the real estate in Lorain County is, as a whole, assessed at a value less than its true value in money." But "we are now paying more than our share of the state taxes as a uniform rate applied to each and every county. Although we are appraised at a value much less than the law contemplates, it would be unfair to ask the people of Lorain County to assume a still greater proportion of the state taxes. Until the state authorities order a statewide reappraisement which would equalize all property in the state and eliminate the inequalities now existing, I believe an appraisement in this county to be inadvisable."

(2) Laylin, C. D., "The Ohio Tax Situation," unpublished.

(3) From the Report of the Ohio Tax Commission, 1916, 1920.

the deterring effect of fear on the would-be tax evader, rather than because of its actual application.

Some auditors do exercise the power given them by law to increase the total amount of the personal property returns submitted by individual taxpayers, when, upon the basis of their own knowledge, or information furnished them by assessors, or even on the basis of shrewd guesses, they have reason to believe that a large part of the personal property of an individual is not being returned for taxation. One auditor in the state in 1921 increased a return on a manufacturer's stock from one million to five million dollars in this manner. Such action is, however, comparatively rare. The auditor is elected by the people, whose property he assesses and often returns to them for re-election at the expiration of his term. The adoption of radical steps by him in the enforcement of the tax laws involves no possible benefit to him as an individual. It merely leads him to commit political suicide.

The Board of Revision actually sits for the performance of its duties in most Ohio counties, though in other counties no session is held. In any case the majority of the work is done by the auditor's office and the other members merely accept or reject his decisions. Often their sole function is to add the weight of their names to the conclusions at which the auditor has already arrived, and they do this as a matter of course.

The power of equalization of appraisements given by the law to the State Tax Commission has been ineffective as a means of enforcing the assessment of property at its true value in money. According to Mr. S. E. Forney, the present chairman of the commission, the time allowed the tax commission under the present statutes, to receive and examine the abstracts of the county tax lists and equalize valuations between the counties, before the date fixed for the levy of taxes, is so short as to make it impossible for the commission to perform this duty.(1) This body has not ordered reappraisals within individual counties and cannot do so as long as the present regulations stand.

The commission did, however, order a general reappraisement over the state in 1920 in pursuance of the statutory power granted it by the legislature the year before. This reappraisal was opposed by the cities, where property values had enormously increased since the last appraisal, and also by the rural interests, already committed to high rates of taxation and fearful of great increases in their tax burden, should the revaluation take place. As it has been described by Professor Lutz, "the counties had been free of any effective central supervision for so long that they felt perfectly competent to question the commission's authority. In response to the storm of protest the governor requested a reconsideration of the order, the opponents of revaluation rallied their forces, and the order was blocked, thereby setting at naught the full value principle, the most fundamental rule of property taxation.(2)

At the time the order was rescinded eighteen counties in the state had obediently proceeded with a revaluation of their property. These counties were penalized for complying with the law by being forced to pay

(1) The commission is given from September first to the first of October to fulfill this function. See G. C. Sec. 5612, 2583.

(2) Lutz, H. L., The State Tax Commission and the Property Tax, Annals of the American Academy, May, 1921, p. 278.

a much larger portion of the state direct tax than do the vast majority of counties which refused compliance. Their lesson once learned, they are now competing in the reduction of the percentage of valuation of the property on their tax lists in order to avoid this penalty in the future. As long as the power of the Ohio Tax Commission can be thus curbed by administrative pressure, there is small hope that its authority in the matter of reappraisals will ever be very effective as a means of securing a fair and equal assessment of the property in the state.

The local assessor, provided for by the law, is generally admitted to be an inefficient officer. The fact that the service required often amounts to no more than ten or twelve days during the year makes it generally impossible for men of ability to desert their other work to take up such a responsibility. The small compensation, in itself, is sufficient to exclude any man of outstanding merit from accepting the office. The assessors are usually farmers in the rural districts, and in the cities, retired merchants, old soldiers or service men. The situation still exists which was pointed out in the first report of the State Tax Commission, "The office.....is frequently treated as a kind of public gratuity, and assessors are elected, not because of their fitness to perform the work required of them, but because they need the money.(1) The election of assessors is often, then, little more than a form of outdoor poor relief. Inasmuch as the officer is chosen directly by the people whom he is to assess and to whom in two short years he must appeal for re-election, his personal inclination is to return their property at only a fractional value rather than at the amount required by law. "To properly perform his duties under these circumstances requires a degree of moral courage in the assessing officer which is not possessed by the average human and his returns are more usually works of fiction than of truth. Proper returns have never been and never will be secured until property is assessed by officers whose tenure of office and compensation are made to depend upon efficiency and the faithful observance of the law."(2)

The constitution and the statutes passed in pursuance of it provide for the assessment of property at its "true value in money" and provide adequate penalties for the punishment of assessing officials who fail to return this property at its "true value." Yet there is no criterion given the assessor by which he can measure this true value, and no body of rules or regulations governing him in his process of assessment. The decisions of the courts seem to indicate that auction price or forced sale price are not criteria of true value, that true value consequently means market value. But in those localities where most of the land is held over a long period of time and few transfers take place, that is, in rural communities, there is no means by which the assessor can determine this market or true value except by rule of thumb. So even where the assessor makes a conscientious attempt to place the property within his district upon the tax list at one hundred per cent value, there is often little upon which he can base his judgment save an unscientific and inexact guess.

The county auditor, upon whom the main burden of assessment is saddled, is probably the most overworked, and in proportion to his duties

(1) Annual Report of the Ohio State Tax Commission, 1910, p. 11.
(2) Ibid.

the most poorly paid official in the county. He has charge of the local assessors, serves as secretary of the board of revision, secretary of the budget commission, clerk of the county commissioners, clerk of the sinking fund trustees, inheritance tax appraiser, paymaster of the county, administrator of the distribution of soldiers' relief, mothers' pensions and pensions for the blind, receives all corporation property returns, all personalty returns, administers the dog tax, makes out the tax list, bears the major part of the work in revision and levy, makes semi-annual settlements with the county treasurer and periodical reports to the commissioners of the county, the tax commission of the state and the State Auditor. There is no relation between the amount of his remuneration and the total value of the property which he gets onto the tax list. He is elected directly by the people whom he is to assess and his term expires at the end of four years. To expect this overworked, underpaid, politically elected official to chase down real and personal property in order to get it onto the tax list at its true value in money, in other words, to expect him properly to perform the duties required of him by law, is to ask an impossibility. It is seen, then, that in spite of the provisions in the Ohio statutes intended to enforce one hundred per cent assessment of property for the purpose of taxation, the administrative mechanism is scarcely adequate to accomplish this end.

SECTION 4—FIXATION OF THE RATE

PART A—LAW AS TO LEVY—(1)

The tax spending authorities in the political subdivisions are required by law to submit annually to the county auditor an estimated itemized budget covering all their wants for the coming year, and containing certain detailed information concerning their financial condition which is specified by law. The board of education in each school district is to determine the amount neecssary for tuition fund, building fund, contingent fund and interest and sinking fund against indebtedness, calculating the rate which must be levied on the taxable property in the district to provide this amount and certifying the same to the auditor. In a like manner the trustees of each township shall certify the rate necessary to provide for the support of its poor, the payment of its debts and other necessary expenses. Municipal councils must make a similar report, providing an adequate rate to cover all activities. The county commissioners, likewise, must certify a rate adequate to provide for the maintenance of the courts, jails, roads, bridges and other necessary expenditures. The auditor of the state then gives notice of the rate which is to be levied on all the property in the state for the support of the common schools, improvement of the highways, the payment of the public debt and the other expenses of the state. In connection with the regular levy for state purposes there is a tax of 2.65 mills to be retained within the counties for the support of their own school system and .15 mills which go to the state government to be used for the assistance of weak school districts in the less wealthy sections of the state. The tax paid by any individual will then include a levy to provide for the maintenance of

(1) Ohio Tax Laws, 1920, Ch. 27-33 inc.

his local schools and peculiar to his district, township or municipal levies common to all taxpayers within those subdivisions, but differing from those of other townships or municipalities, a county levy which is the same for each taxpayer in the county and a state levy which is uniform over all the counties in the state.

The law provides that all these levies must not exceed, in amount, certain specified rates. A general limitation on the rates of taxation in every subdivision in the state is found in Section 5649 of the General Code of the state, which prohibits any district from levying more than a total of ten mills on its taxable property, exclusive of, or fifteen mills, inclusive of, interest and sinking fund levies or special levies contracted by a vote of the people. The same section provides interior limits which check the levying power of every subdivision in the state. Counties are restricted to three mills; municipalities, five mills; townships, one and one-half mills, and school districts three mills. The fact that these internal maximums, together with the state levy, amount to more than ten mills, makes it impossible for all the subsivisions in any county to receive their allotted rate if the exterior limits are observed. There are, however, many exceptions to both the ten mill and fifteen mill exterior limits which will be discussed later.

In order to insure compliance with this limit legislation, the statutes provide for a County Budget Commission consisting of the county auditor, the county treasurer and the prosecuting attorney. These men are to meet annually to adjust the rates of taxation and fix the amounts to be levied. Their duty is to examine the levies made by each political subdivision in order to see that they are within the limits provided by the law. If they discover that these limits are exceeded they may reduce any item save sinking fund levies in the budget of any political subdivision until it falls within the required limits. It is not within their power to increase any item in any budget nor, if the tax limits are not exceeded, to decrease any item. Upon the completion of their work, with all the levies conforming to both the exterior and interior limits described, they certify the results of their action to the county auditor, who enters the rates, as adjusted by them, on his tax list.

PART B—PRACTICE IN LEVY—

The total taxes on general property levied by the state government in the year 1921 were as follows:(1)

TABLE VI

Purpose	Mills	Amount	Per cent of Total
Educational Building Fund	.125	$1,343,324	12
Institutional Building Fund	.250	2,681,634	24
Educational Equalization Fund	.150	1,613,995	15
State Highway Improvement	.500	5,370,433	49
	1.025	$11,009,388	100

The total taxes levied on general property within the state were distributed as follows:(2)

(1) Information furnished by the State Tax Commission, unpublished.
(2) Ibid.

TABLE VII

Unit Making Levy	Percent of Total	Amount
State	5.	$ 11,009,388
County	19.8	43,684,092
Township	5.9	13,114,301
School District	29.3	64,491,424
2.65 mill levy for schools, retained by the county	12.9	28,410,838
City and Village	26.9	59,302,475
Total levy		$220,012,521

It will be seen then, that a citizen possessing $1,000.00 of taxable property paid to the state only $1.02 and that of the tax dollar contributed for all purposes the largest part went to support school and city activities, nearly one-half of it going directly for educational purposes.

It is not the practice of the officers of the political subdivisions to certify necessary tax rates to the county auditor, as prescribed by law. Their activity, in fact, consists in informing that official as to the total amount, in dollars, which they consider they will need for their activities in the coming year There is no such thing as a local budget in the rural districts of Ohio. The so-called budgets usually consist of rough estimates, rather hastily scribbled and left to the county auditor for adjustment. The auditor usually must also assume the duty of determining the amount to be levied for county purposes, a function given by the law to the commissioners of the county. The budgets, as submitted, nearly always ask for a far larger sum than is needed properly to conduct the activities of the political subdivisions, because their officers know that some reduction in the amount granted them will be inevitable, in order to bring their levy within the limitations prescribed by law.

The budget commission described above is really not a budget commission at all, since it is not its function to assist and guide the subdivisions in the preparation of careful, detailed budgets. Its title is a misnomer. A better term to be applied to it, as has been often suggested, would be that of "Paring Commission," since its main duty is to reduce the amounts asked for by the local governments. In many counties the board actually meets to perform its work. In Huron County this body sits with the levying officials when their budgets are made out and thus secures the necessary adjustment of the levy. In a few other counties the commission journeys from town to town, meeting there with the local officials to secure the settlement. In other counties the work of the commission is done entirely by the county auditor and their acceptance of his decision is a mere formality. Some auditors report that the other members of the commission have neither the time nor the interest to familiarize themselves with the work required of them by law.

The most of the work in connection with the adjustment of the tax levy is usually done by the auditor, who calls in the representatives of the local governments and discusses their requirements with them. Where it is possible, these officials are asked to consent to a reduction in, or the elimination of some of the less important items in their budgets. If it is impossible to secure adequate reduction through these personal conferences with representatives of school boards, city councils and the

like, the final step taken to bring the levies within the legal limits, is to cut equal amounts from the levy of each one of the subdivisions concerned. This action is then confirmed or revised by the other members of the budget commission. It is obvious that such a system does not provide for the disbursement of funds in any way calculated to meet carefully all public needs.

The accusation has often been made that the Budget Commission, consisting entirely of county officials, provides primarily for the needs of the counties and makes its reductions, where such action is necessary solely in the budgets of the townships, the school districts and the cities. This charge is not generally borne out by facts. A table prepared by the State Tax Commission shows that the percentage of the total taxes going to the counties has steadily decreased over a period of five years, while the portions going to many other subdivisions have been increasing.

TABLE VIII

Levying Unit	Division of Taxes by Percentage(1)				
	1917	1918	1919	1920	1921
School Districts	35.9	36.4	38.9	44.4	42.9
Cities and Villages	29.1	29.3	36.4	25.5	26.9
Counties	23.8	23.3	22.9	21.1	19.8
Townships	8.0	8.0	7.8	6.1	5.9
State	2.9	2.8	3.8	2.5	4.1

In many individual counties, however, the lack of representation of other governmental units than the county, in the Budget Commission, may work to their disadvantage.

SECTION 5—COLLECTION(2)

The county treasurer is charged with the collection of the taxes after the processes of assessment and levy have been completed. On the auditor's tax list and on the duplicate which he delivers to the county treasurer are recorded the amount of taxes payable by each individual according to the value of his property as listed. This amount is divided into two installments, which are entered in separate columns in order that biennial payment may be possible. As taxpayers make their settlement with the treasurer receipt is given them and the payment is recorded on the duplicate. The treasurer is required to make annual publication of the rates of taxation within each political subdivision, together with the purposes of the levies, and to give public notice as to the places where and the time when taxes will be received. He must make an annual report to the auditor as to the amount of taxes collected and is held responsible for the amounts entered on the tax duplicate, less the amounts specifically recorded as delinquent. The auditor then opens accounts with each political subdivision in his county, semi-annually crediting them with the amounts collected by the treasurer for their use. The treasurers of the subdivisions, upon the receipt of warrants from the county auditor, can then collect from the treasurer the amount of funds which are due them. The disbursements of these funds for the conduct of their activities is then left in the hands of the local officials.

(1) Information furnished by the State Tax Commission.

(2) Ohio Tax Laws, 1920, Ch. 34 and 35.

CHAPTER III—TAX LIMITATION

SECTION 1—ORIGIN OF THE SMITH LAW

The average tax rate in the State of Ohio in 1851 was one per cent. At that time there was no limitation provided by law restricting rate increases. The functions of levying taxes and of making expenditures were vested in the same set of officials. There was a constant pressure for an increase of government activities, with no provisions existing which prevented an increase in revenues from further taxation. The result was that "the tax spender began to encroach on the taxpayer and the average tax rate slowly increased from year to year. It reached 1.65 per cent in 1864 and as an effect of the war, jumped to nearly 2 per cent in 1865."(1) In 1910, in spite of the "Uniform Rule" of the constitution, the property throughout the state was assessed at fractions of its full value which varied from 30% in some sections to 60% in others.(2) At that time with tangible property assessed at these "varying percentages of full value and with a large proportion of the intangible property escaping entirely, the tax rates in the state varied from one and four-tenths per cent, to six and seven-tenths per cent, with an average rate for the state of two and one-half per cent and for the cities and villages of approximately three and one-half per cent."(3) In the past the laws of the state had required decennial reappraisals of property. In 1909 a law was enacted making the reappraisals quadrennial(4) and setting the next appraisal for the year 1910. As the 1910 appraisal approached great popular opposition arose to the assessment of property at its full value in money as required by the constitution. It was generally recognized that the taxation of property at the existing rates, if it were to be assessed at one hundred per cent value, would work great injustice. In the case of intangible property held in cities, stocks or bonds or money on deposit yielding a return of four or five per cent, the three per cent tax rate amounted to practical confiscation. It had, in fact, driven much of this property from the tax list. It was seen that the full value assessment of tangible property while this tax rate stood would amount to similar confiscation in the case of real estate The owner of realty, however, was at a disadvantage in comparison with his friend who had invested in intangibles, since he would not be able to secrete his property in a safety deposit box. He saw, then, in the projected reappraisal a practically unbearable increase in his tax burden. It is not surprising that this situation gave rise to a great deal of dissatisfaction among the taxpayers of the state.

At this time the Tax Commission summoned the county auditors to Columbus to instruct them as to the procedure necessary in carrying out the pending revaluation. These officials united in their opposition to

(1) Report of the Auditor of the State, Ohio, 1920, p. 9.

(2) Letter, Mr. Edge, Legislative Reference Bureau, to Mr. Atkinson, July 15, 1921.

(3) Dittey, R. M., Uniform Rule and Tax Limit Legislation in Ohio, Proceedings Sixth Conference, Nat. Tax Assn. 1912, p. 229.

(4) This law has since been repealed. (For discussion, see Annual Report of the Tax Commission of Ohio, 1913, p. 4.)

the reappraisal because of the existing popular disapproval. As a solution of the difficulty, E. M. Fullington, who was at that time the auditor of the state, presented to the convention the idea of limiting the tax rate by legislative enactment as a guarantee to the taxpayers that the assessment of their property at its true value in money would not bring about an increase in their tax burden. The county auditors accepted this suggestion and agreed to proceed with the reappraisal, with the understanding that the state legislature would make this provision. Judson A. Harmon, then governor of the state, was present at their meeting and pledged himself to secure, if possible, the enactment of a law embodying the suggested limitation. Reassured by this pledge, the auditors returned to their counties and proceeded with the task of reappraisal.(1)

The assessment which then took place increased the total of taxable property on the grand duplicate of the state from two and one-half billion dollars in 1910 to nearly six and one-quarter billion in 1911, distributed as follows:(2)

	Realty	Personalty	Total
1910	$1,656,944,631	$ 827,320,943	$2,484,265,574
1911	4,673,439,712	1,927,863,876	6,601,203,588

It will be seen that the increase achieved in the amount of real estate on the tax list was much greater than that in the case of personal property. The hopes of some of the proponents of the tax limit legislation had been that a promise of a lower rate would be sufficient greatly to increase the return of the latter class of property. The results of the appraisal scarcely fulfilled their expectations. The assessment, however, was completed before the final passage of the rate-limit legislation, while there was still doubt as to whether its enactment would ever take place or its operation be successful if enacted. It has been suggested that had the limitation provisions been in operation at the time of the assessment, an even greater increase in the total duplicate would have been achieved.(3)

The degree of success with which the reappraisal did meet may be attributed to three causes. In the first place, the state government had reduced to a minimum the amount of money which it raised through the property tax, attempting to secure the majority of its income from other sources and leave this source of revenue mainly to the political subdivisions. This reduction in the state levy removed the principal excuse for undervaluation in the counties. In the second place, the equalization powers granted the newly created State Tax Commission stimulated full value reassessment. Finally, it must be admitted, that the prospect of rate limitation goaded many localities into increasing their assessment that they might have adequate funds with which to conduct their necessary activities.(4)

The tax limit legislation was projected originally for the purpose of making it possible to secure one hundred per cent value assessment of property. It was hoped that the guarantee of a low rate would make easier the assessment of real property and coax onto the tax list much

(1) Letter, Mr. Edge to Mr. Atkinson, July 15, 1921.
(2) Report of the Auditor of the State, Ohio, 1920, p. 217.
(3) Report of the Ohio Tax Commission, 1910, p. 37.
(4) Lutz, H. L., The State Tax Commission, p. 486.

personal property which had hitherto entirely escaped taxation. The law was regarded by its advocates as a contractual obligation assumed by the state giving a guarantee to property owners that the return of their property at its full value would not increase the burden of taxation which it was necessary for them to bear.(1) It had the further object of curbing the tax-spending power of that set of officials who were charged both with the collection and the disbursement of public funds. It was for the accomplishment of these avowed ends rather than for the achievement of ulterior purposes(2) that the tax limit bill was presented to the state legislature.

Governor Harmon, during his entire term of office, was consistent in his desire to secure a fair distribution of the tax burden in the state. In his inaugural address in January, 1909, he deplored the inequality existing in the assessment of real estate and the disappearance of intangible property from the tax duplicate, promising improvement in the administration of the property tax. Carrying his promise to fulfillment, he urged the Seventy-eighth General Assembly in his message in 1910 to enact legislation for the purpose of making all types of property contribute their just portion to the public revenue. He advocated the observance of the uniform rule of the constitution, pointing out that assessment at less than one hundred per cent value worked a substantial injustice to farmers and home owners, who, he said, should not be expected to submit to the pending reappraisal unless all property was similiarly treated. The greatest difficulty in the existing system, he declared, was the withholding of money, notes, stocks, bonds and credits from taxation. Not over nine and one-half per cent of the money on deposit in banks was returned. The reports of merchants' and manufacturers' stocks, of credits and investments in stocks and bonds had steadily decreased over a period of forty years, while the ownership of those types of property in the state had increased enormously. The citizens of the smaller, poorer counties in the state were steadily returning more intangible property for taxation than their neighbors in the richer districts. The high tax rates, he stated, practically compelled the withdrawal of these kinds of property from the tax duplicate. No inquisitorial system could compel their owners to pay taxes upon them, but a limitation of the tax rate, removing the sense of the injustice of the system from the mind of the owner of intangibles would go far to bring them onto the tax list. A maximum tax rate of one per cent on this type of property would insure its return. The resulting increase in the duplicate of the state would lessen the burden of taxation on visible property and cause it to be listed at full value with less reluctance. A

(1) In 1917 Senator Terrell introduced a bill aimed to give municipalities more latitude in their power to levy taxes. This bill was defeated in committee upon the receipt of a letter from Ex-Governor Harmon which stated that the Smith Law was a compact with the taxpayers, assuring them that if they would place previously hidden property on the duplicate, the state would do its part to prevent an increase in the rate.

(2) Charges have been made that the utility interests backed the proposal in order to forestall the extension of municipal ownership. Other charges have asserted that the purpose of the rate limitation was to force political subdivisions to issue bonds to carry on their necessary activities, thus providing financial interests with new and valuable investment securities. (See Proceedngs of the National Tax Association, Fourteenth Conference, Statement by C. A. Dyer, p. 184.)

provision in the law that no property should be penalized for non-return in the past would make possible this desirable result. In order to bring this about the governor made the following recommendation:

> "The first thing to be done is to make it certain that a rise in the valuation shall lower the tax rate so the people shall be asked for no greater amount of taxes than heretofore. It is what they have to pay that counts and not the valuation or the rate by which this is figured. So a bill will be presented, which should be promptly passed at the beginning of the session, reducing the present limitation of the tax rate in proportion to the increase in the duplicate. This will prevent any raise in the total amount of taxes levied without the vote of the people; but each owner will have less to pay when the total required is spread over a duplicate enlarged by values and property heretofore omitted."(1)

The platforms of both political parties in the state in 1910 supported the governor's proposal for rate limitation. The Democratic platform contained the following statement: "We favor a maximum aggregate rate of ten mills, without any right to increase it without a vote of the people." And the Republican platform declared: "We favor assessing all property, real and personal at its true value in money and limiting the tax rate for all purposes to ten mills."(2) These proposals had hearty popular support.

A bill embodying these features was drafted under the direction of Governor Harmon, Ex-Governor Campbell, Auditor Fullington and Judge Dittey, chairman of the newly created tax commission, and introduced in the lower house of the assembly by Representative W. T. Smith of Marion. At the same time a similar bill was introduced in the upper house by Senator Alsdorf. The Smith bill, called "A bill to secure equitable valuation of property for taxation by limiting the tax rate, etc.," was so fiercely attacked on its third reading because of defects of detail that it was referred to a special bi-partisan committee of ten which redrafted it and returned it to the house in the form in which it was passed by them. While this was taking place the senate passed the Alsdorf bill, which was practically identical with the redrafted house measure and referred it to the lower body, where it was passed unanimously, becoming the tax limit act of 1910. The house measure, over which so much time had been spent, was thrown into the discard. The Alsdorf Act, however, proved to be so vague in its limitation requirements and so inadequate in its administrative provisions, that it was entirely changed at the next session of the legislature in 1911 by the enactment of a re-vamped Smith measure, which became the famous "Smith One Per Cent Law" of the state of Ohio. That this measure was generally satisfactory to its proponents may be gathered from the statement of Governor Harmon that "a most gratifying feature of our tax reform has been the acquiescence without litigation in the general raising of valuations which in many cases have been very large. This is due, not only to the general conviction of absolute fairness on all sides, but also to the assurance against

(1) Message of Governor Harmon to the 78th General Assembly, 1910.
(2) Foote, A. R., "Taxation Work and Experience in Ohio," p. 16.

imposition which these limitations afford. It would be bad faith as well as bad policy to change them."(1)

It is also seen in the declaration of Allen R. Foote, president of the National Tax Association, in a paper addressed to that body that "no law has greater power to benefit the people by securing for them diversified, widely disseminated and enduring economic advantages than has the law now on the statute books."(2) Two years later Judge Dittey rallied to the support of the law before the same body. "Statements," said he, "in the newspapers and magazines to the effect that the schools of the state have been destroyed and cities of the state impoverished, are without foundation in truth or fact and emanate from interested parties or are circulated for political purposes."(3)

SECTION 2—EXISTING UNDERVALUATION IN OHIO

PART A—REAL ESTATE—

It is a matter of common knowledge that the real property in the state of Ohio is not returned for taxation at its full value in money. Various estimates have been made as to the percentage of value at which realty is generally assessed. Vic Donahey, former auditor of the state, stated in his report in 1920 that the average valuation did not exceed sixty-six per cent.(4) Mr. Tracy, the present auditor, told the members of the Ohio Tax Association at their January convention in 1922, that the percentage varied from less than sixty in some counties to over ninety in others. The State Tax Commission in December, 1919, requested the county auditors to compare the tax list value of real estate in their localities with the most recent transfer prices. The results of the comparison showed that at that time the percentage of full value was probably about sixty-seven.(5) The auditors of the various counties at the present time report percentages ranging from forty to ninety. The auditor of Champaign County asserts that the real estate there is listed now at 115 per cent of its value, due to a fall in the price level following a war-time appraisal. A real estate board representative from Canton, Ohio, stated at the Tax Association convention that he had often sold properties at two and three times the value at which they were listed for taxation. In Marion County rural property which was last assessed in 1910, is returned at forty per cent of its value, while realty in the city of Marion, which underwent an appraisal in 1917, is returned at eighty per cent. In other counties the rural assessment stands at full value, due to price changes, while the increasingly valuable metropolitan sites are reported at only a fraction of their true worth. In the village of Delaware, ten properties which had changed hands during the past two years at a total price of $45,380 are listed for taxation at $26,110, or 57% of their selling value. In many cities it is the practice to record real estate transfers at "one dollar and other valuable considerations,"

(1) Message of Governor Harmon to the 80th General Assembly, January 6, 1913.

(2) Foote, A. R., "Taxation Work and Experience in Ohio," p. 17.

(3) Dittey, R. M., Uniform Rule and Tax Limit Legislation in Ohio, Proceedings Sixth Annual Conference, National Tax Association, p. 229.

(4) Report of the Auditor of the State of Ohio, 1920, p. 215.

(5) Information in the files of the State Tax Commission.

thus preventing the taxing officials from arriving at any valid conclusion as to the percentage of valuation at which realty is actually returned. The result of these inequalities is, of course, in some cases to make the rural taxpayers bear the bulk of the county burden; in others, to place this burden on the taxpayers of the cities and villages; and finally, to cause some counties to pay less and other counties more than their fair share of the state expenses.

PART B—PERSONAL PROPERTY—

Personal property in the state pays far less in taxes than does the real estate. The reassessment which took place in 1910 increased the amount of the former by only 133% and the amount of the latter by 158%. Of this personality, credits represented an increase of but 88% and money of only 58%.(1) The reappraisal resulted, then, in a substantial increase in the proportion of the tax burden borne by land owners. The auditors of the counties admit an escape of personal property from taxation of anywhere from ten to seventy-five per cent. The accompanying table shows that a larger percentage of taxes were paid in 1920 by personal property in the small, thinly populated counties than in the wealthy and populous districts where the bulk of the personalty is probably held.

TABLE IX

(Based on Report of the Ohio State Tax Commission for 1920)

Five Large Counties—	
Cuyahoga, Franklin, Hamilton, Lucas, Summit	
Total Value of Real Property	$3,334,501,000
Total Value of Personal Property	1,612,401,000
Percentage of Total Duplicate Real Property	67.4%
Personal	32.6%
Five Small Counties—	
Carroll, Geauga, Hocking, Pike, Vinton	
Total Value of Real Property	$56,318,000
Total Value of Personal Property	54,206,000
Percentage of Total Duplicate Real Property	50.9%
Personal	49.1%

Apparently since 1911 the percentage of the total taxes paid by personal property has been slowly increasing.(2) This may be largely due to the fact that the public utilities are listed as personal property,

(1) Report, Auditor of the State, Ohio, 1920, p. 9.

(2) The percentage on the tax duplicate of each type of property for the past twelve years has been as follows:

Year	Real Estate	Personal Property	Year	Real Estate	Personal Property
1910	66.7	33.3	1916	63.1	36.9
1911	69	31	1917	62	38
1912	66.9	33.1	1918	60	40
1913	65.8	34.2	1919	60	40
1914	63.3	36.7	1920	60	40
1915	66.1	33.9	1921	59.4	40.6

(2) Report, Auditor of the State, Ohio, p. 7.

thus swelling the proportion of the latter far beyond what it would otherwise be. It was the estimate of Auditor Donahey in 1920 that the exclusion from consideration of public utilities would leave the proportion between real estate and personal property at about 75% and 25%. Real estate, he says, which does not represent more than one-half of the property in the state, pays about three-fourths of all the direct taxes.(1)

> "One-third of all personal property listed in Ohio is the assessed value of public utilities. Another third consists of merchandise, raw materials and manufactured products, machinery used in manufacturing, tools and implements of labor on the farm and in the factory. Half of the last third is furnished by live stock, automobiles, household goods, vehicles, musical instruments, jewelry and other visible personal effects. Where do we get the remaining half of this last third of listed personal property? When this property was listed the banks of Ohio contained one billion, seven hundred and fifty million dollars of deposits. The deposits in the banks today are over two billion dollars. Less than one-tenth of this was listed for taxation. Of the billions invested in bonds, stocks, notes and securities, and all taxable credits, enough was listed to bring the total of intangibles listed to about three-quarters of a billion—the one-sixth of personal property listed not accounted for above. It was not listed because it is invisible."(2)

(1) TANGIBLE PERSONALTY

Of all tangible personalty, the largest percentage is probably returned for taxation in the case of live stock. A comparison of the number, value and average value of the domestic animals of the state as discovered by the United States Census in 1920 and as returned for taxation in the same year shows a far smaller amount of this property escaping taxation than is the case with any other type of personalty. Table X shows the detailed results of this comparison. Ninety-eight per cent of the horses in the state are reported; at ninety-four per cent of their value. The returns to the taxing officials as to the numbers of mules, asses and burros were 105% of the returns for the census, but the return in total value was only 90%, and in the average value per animal, but 87%. The same sort of discrepancy exists in the case of cattle. 89% of the cattle were reported for taxation, but at only 76% of their total value and at 84% of their average value. The returns in the number of sheep and swine were in each case 85% as large on the tax duplicate as on the census report, though the sheep were reported at 91% of total value, 99% of average value, while the swine were returned at only 71% of their total and 89% of their average value. Though poultry was generally returned at full value per unit, about forty per cent of it apparently escaped taxation entirely. This apparent discrepancy needs some qualification, however, because of the possible poulty increase between January first, the census listing date, and April tenth, the tax listing date. These figures do not indicate sufficient tax evasion to cause particular concern.

(1) Report, Auditor of State, Ohio, p. 7.
(3) Ibid, p. 8.

The case is not so favorable with the return of farm implements and machinery. The total value of return for the census in 1920 for this type of property was $146,575,269.(1) The return for the personal property tax was but $54,450,403, or 37% of full value.

TABLE X—RETURN OF LIVE STOCK FOR TAXATION IN OHIO

(1) Domestic Animals on Farm, according to the United States Census, January 1, 1920 (Report on Agriculture in Ohio, Bureau of the Census, 1922).

(2) Live Stock Returned for the Ohio Tax Duplicate, April 10, 1920. (From the Abstract of Personal Property, Ohio Tax Commission Report, 1920.)

		Number	Value	Average Value	Per cent Returned	Per cent of Value	Per cent Av. Value
Horses	(1)	810,692	$ 76,792,266	$ 94.65			
	(2)	800,013	72,375,486	90.00	98	94	94
Mules, Asses & Burros	(1)	32,203	3,711,299	115.00			
	(2)	33,986	3,380,550	100.00	105	90	87
Cattle	(1)	1,926,823	118,581,927	61.54			
	(2)	1,722,500	90,594,566	52.00	89	76	84
Sheep	(1)	2,102,550	19,020,588	9.05			
	(2)	1,780,360	17,282,350	9.00	85	91	99
Swine	(1)	3,083,846	48,485,251	15.72			
	(2)	2,431,964	34,518,220	14.00	85	71	89
Poultry	(1)	20,604,103	20,693,940	1.00			
	(2)	12,883,743	13,294,371	1.03	62	64	103

(Since many domestic animals are born during the period between January first and April fifteenth and many older animals are slaughtered or die, these figures are not *exactly* comparable.)

The under-return of merchants' and manufacturers' stocks and equipment for taxation under the property tax is notorious. The auditors of the counties admit evasions in their localities of from 10% to 75% on this type of property. In Carroll County two million dollars worth of this property pays no taxes, according to the report of the auditor. The same is the case in Perry County. In Champaign County, a merchant who returned his stock for taxation at $29,000, claimed $91,250 on the same stock when seeking credit at a mercantile agency. When questioned as to the discrepancy, he explained that the former figure represented cost price, the latter selling price. The laws of the state do not make clear which of these figures should be used as the criterion of "true value in money." The auditor of Jefferson County states that there is one retail establishment in his town with a stock worth $250,000 which is returned for taxation at only $91,000. Mr. Gaskill, of Darke County, at the Tax Association convention, spoke of a department store in the northern part of the state, with a thirty million dollar annual turnover, only one million of which was returned for taxation; of a steel company in the southern part of the state, on the tax duplicate at one million dollars and cutting a five million dollar melon in one year. Such illustrations might be multiplied. It is scarcely necessary, however, to go further in order to demonstrate the wide-spread tax evasion of this property. Since there is scant probability that the auditor will appear on the

(1) Preliminary Report, Agriculture in Ohio, Bureau of the Census, 1922.

scene to check up on every inventory of goods in his territory, the merchant feels quite secure in disregarding the perjury-prosecution possibilities of the oath on his tax return, and returns his goods at any percentage of their true value which may appeal to him as a just rate, or as a plausible figure to return to the taxing official.

A mechanism is provided which should secure the return of all automobiles in the state for taxation. Persons applying for automobile licenses must fill in a form along with their application, which is sent to the auditor of their county. He, then, should check these reports against the personal property returns as they come in. This scheme does not, however, get all automobiles onto the tax duplicate, in the opinion of an official of the Automobile Department of the Secretary of State's office, since it is rarely that an auditor will attempt to assume the unnecessary and unwelcome task of seeking out those cars which are not voluntarily returned. In addition to this, the scheme is absolutely powerless to secure a return of the cars, which are reported, at anywhere near their full value. In 1920 there were 533,000 passenger automobiles and 83,000 trucks in Ohio, a total of 616,000 motor vehicles. There was returned to the officials for taxation that year as full value, $183,429,568 under the heading "Motor and Other Vehicles." Completely eliminating from consideration the bicycles, motorcycles, tandems, velocipedes, buggies, coaches, cabs, sledges, cutters and "one hoss shays" that may or may not have contributed to the composition of that total, we still have an average value for motor vehicles of only $297.77. While it may be conceivable that the Fords, Dodges, Chevrolets, Maxwells, Overlands and the like that make up nearly four-fifths of the total number of cars and pay $8.00 license fees, should have an average value as low as this, it is scarcely possible to include within it those cars which pay $12 and $20 horsepower fees, over a fifth of the cars in the state, which in 1920 numbered considerably over 150,000. Automobiles cannot be thought of, by any stretch of the imagination, as being returned for taxation at their "true value in money."

The return of pianos and musical instruments is similarly low. The total value of this type of property in Ashland County, according to the 1920 tax duplicate, was $251,560. The population of this county at the time was given by the United States Census as 24,627. Making the very liberal allowance of five persons to a family, the county would consist of 4,923 such families. Assuming that 2,000 of these families, less than half of the total, possess pianos, and excluding all other musical instruments from consideration, the average value of pianos as returned for taxation would be $125.00, an inexact but suggestive figure. It is highly probable that there are more than two thousand pianos in the county. When one considers in addition to these the phonographs and other musical instruments owned in the majority of modern homes, which go to make up the two hundred and fifty thousand dollar total, this $125.00 average for pianos suggests a startling under-return of all these items for taxation.

The evasion on the part of other household goods is probably even greater. Their total value as returned in Richland County in 1920 was $1,509,945. The population of the county that year was 55,178, or 11,055

families of five members each. The average value of the household furniture for each one of these families would then be $136.00. A similar computation for Delaware County places the average value of household goods there at $169.00, which may represent a higher standard of honesty in the latter county rather than a higher standard of living. But a young couple, who attempted properly to furnish one room for the price at which the people of Delaware County tell the taxing officials they have outfitted their whole houses, would soon come to grief. In short, the situation which exists as to the escape of tangible personalty in the state calls to mind the observation of the "Young Lady Across the Way," that her father was awfully modest and never boasted about his money and she overheard him say that he had returned his property for taxation at less than half its value. Apparently humility of this type is quite common in the state of Ohio.

(2) INTANGIBLE PERSONAL PROPERTY

Of all the taxpayers in Ohio, the holders of intangibles are bearing the lightest burden. Their return of this property for taxation is as purely voluntary as their contributions to a Sunday School collection. Mr. Horn of the State Tax Commission, guessed that not over 5% of the intangible property in the state is being returned at the present time. The county auditors of the state report that from fifty to ninety per cent of the money on deposit, with total figures running in every case into millions, escapes taxation. A study in Marion County in 1919 showed that only 4% of the money on deposit in the banks at that time was being returned for taxation.(1) From 1912 to 1913 the total of moneys returned dropped from one hundred and nineteen to one hundred and twelve millions. In 1914 the total money returned was only twenty per cent of the bank deposits of the state.(2) Table Eleven demonstrates the present discrepancy between bank deposits and moneys returned for taxation. At the same time (1920) that the total deposits in the state were over one billion, six hundred million, the money returned for taxation totaled but three hundred and twenty millions. The money on the tax duplicate represented but twenty per cent of the bank deposits of the state. It is obvious, from these figures, that at least eighty per cent of the money of Ohio citizens is not returned for taxation. It is probable that the total escaping more nearly reaches ninety or ninety-five per cent.

(1) Statement to the writer by the Auditor of Marion County.
(2) Lutz, H. L., The State Tax Commission, p. 506.

TABLE XI—MONEY ON DEPOSIT IN OHIO

	In the National Banks of Ohio on February 28, 1920[1]	In State and Private Banks on December 31, 1919 [2]
Deposits of Postal Savings Accounts....	$ 27,349,000	$ 2,259,000
Deposits Subject to Check	442,977,000	312,155,000
Deposits Subject to Notice of less than Thirty Days	29,663,000	41,194,000
Other Demand Deposits	1,006,000	.....
Certificates of Deposit over Thirty Days	55,324,000	86,970,000
Other Time Deposits	104,196,000	504,486,000
Total	$660,515,000	$947,064,000
Grand Total (exclusive of public funds, trust deposits, notes and bills rediscounted, acceptances outstanding, letters of credit, etc.)		$1,607,826,000
"Value of All Moneys in Possession or Subject to Draft" on the Ohio Tax Duplicate for (April 10,) 1920[3]		321,063,809

It is impossible to discover, for the purpose of comparison with the return of this property to the tax officials, any sort of figures on the actual ownership of stocks, bonds, etc., by Ohio citizens. No man knows either the percentage or the total amount of this property which is escaping taxation in the state. One guess is as valuable as another. Professor Lutz, of Oberlin College, has presented a comparison which proves the existence, if not the amount, of evasion.[4] In 1918 citizens of Ohio returned to the Bureau of Internal Revenue of the federal government $152,000,000 as dividend income and $40,000,000 as interest income, a total funded return of $192,000,000.[5] At the same time the principal of stocks and bonds returned for taxation in Ohio under the general property tax was $119,000,000,[6] which would seem to indicate that the investments included in the latter report were earning handsome returns. These figures must be qualified by the fact that minimum exemptions under the income tax prevented the return of all dividend and interest income in Ohio to the Bureau of Internal Revenue, and also by the fact that Ohio citizens are not required to return for the property tax the principal of their shares of stock in Ohio corporations. Even with such allowances, these figures indicate that there is very general evasion of the property tax as far as it falls on intangibles.

SECTION 3—THE EFFECTS OF UNDERVALUATION

The general reappraisal of 1910 supposedly placed real property in the state of Ohio on the tax duplicate at its full value, a value which was uniform in all parts of the state. If such uniformity of assessments had

(1) Report of the U. S. Comptroller of the Currency for 1920, pp. 180, 181, 182.

(2) Statement No. 56, Dept. of Banks, State of Ohio.

(3) Annual Report of the Ohio Tax Commission, 1920.

This figure, of course, should include a considerable amount not reported as on deposit in banks in Ohio, i. e.; the deposits of Ohio citizens in banks outside the state and their money in possession but not on deposit.

(4) Lutz, H. L., at the Ohio Tax Assn. Convention, January 19, 1922.

(5) Statistics of Income, Compiled from Returns for 1918, Commission of Internal Revenue, p. 43.

(6) Report of the Ohio Tax Commission, 1918.

been constantly maintained by proper administrative methods, the tax dilemma which faces the citizens of the state today would never have come into existence. But the principle of one hundred per cent assessment, although adhered to in theory, was soon deserted in practice. The first step away from it was in the contest waged by the counties to lower their tax list totals in order to lessen the burden of the state levy. This contest has been described by Mr. Laylin in these words:

> "The schools were supported in part by a property tax levy on the grand duplicate of the state, distributed among the counties roughly in proportion to the school needs therein. There arose, then, a perfectly natural feeling on the part of the counties whose contribution to this fund exceeded their distribution from it that their interests could be served by securing lower tax duplicates. A competition in rate and valuation juggling followed. It came to be the accepted understanding that all tangible property in the state, especially the real property, was listed at much less than its true value in money.....The local officials who were participants in this policy of administration, if it may be called such, did not intend thereby to reduce their local revenues, but only their proportional contribution to the state revenue."(1)

The result of this policy was, of course, a great inequality in the proportion in which the property of citizens of the various counties contributed toward maintaining the functions of the state government. In like manner the variations in the percentage of full valuation on property within these counties resulted in similar inequalities between the citizens of these counties in their contribution to the expenses of the county government.

This general undervaluation, taking place at the same time that the government was undertaking more activities for the general welfare and the cost of all the existing necessary activities was increasing, due to unprecedented changes in the general level of prices, made higher tax rates inevitable. In order to secure the necessary increase in funds on the smaller value of property returned for taxation, rates in Ohio have risen far above the limitations prescribed by law. This rate increase encouraged the under-return of tangible personal property, property which was in the first place reported at only a fraction of its full value. It made inevitable the withdrawal of intangibles from the tax list. This type of property usually produces but a small yield in proportion to its selling value. If it is returned for taxation at all it must be returned at full value. To the citizen of Columbus who saw a valuable business property in that city, listed at half its full value, paying twenty per cent on the investment and still paying eighteen per cent after it had contributed its twenty mill tax, it seemed substantially unjust that he should return for taxation bonds yielding him a return of four per cent and contribute two per cent of that to the tax funds, retaining only two per cent as the earnings on his money. It was this situation which was probably in the mind of Rev. Washington Gladden, "the first citizen of

(1) Laylin, C. D., "The Ohio Tax Situation."

Columbus," when he said, "I never pay my taxes without a rankling feeling of wrong. This is what happens to every honest man."(1) It is probably this sense of injustice more than any general lack of moral integrity on the part of the citizens of Ohio, which has made the non-return of intangible property the rule in the state.

Another fruitful cause of inequality in relation to intangibles is the practice of granting to federal, state and municipal bonds tax exemption privileges. This practice makes possible the legal evasion of taxation both federal and local. It grants tax immunity to those members of the community who are most able to contribute to the general revenues. It unfairly increases the tax burden resting on all other types of property. It places legitimate industrial and commercial enterprise at an unfair disadvantage in the securing of funds. It defeats its own end by substantially curtailing the power of taxation. This practice can only be stopped by an amendment to the federal constitution, an amendment which has already been proposed(2) and should be speedily passed.

This general withdrawal of all types of personal property from taxation still further diminishes the base upon which the tax can be levied and makes necessary still further increases in tax rates. The bulk of the burden falls on real estate. Real estate owners, especially farmers, become "justly aggrieved at this state of affairs, unconscious, of course, that it has come about as the price of low valuations of real estate, which they.....doubtless regarded as a benefit to them."(3)

It is this general under-valuation and evasion which has made necessary the increases which have taken place in tax rates. If all the property which is subject to the general property tax in the state were returned for taxation at its "true value" in money, it would doubtless still be possible for us to carry on all our necessary governmental activities within the rate limits set by the original Smith law.(4) The tax dilemma which faces the citizens of Ohio today has resulted from inadequate assessment administration, not from rate-limit legislation.

Justice in taxation can never be achieved by any other means than universal one hundred per cent assessment systematically and constantly maintained. Although percentage assessment may be supported by the taxpayer it inevitably leads to inequalities which operate to his disadvantage. Under-assessment has nothing to recommend it. There is still truth in the charges of the special tax commission of 1893:

> "The system as it is actually administered results in a debauching of the moral sense. It is a school of perjury. The moral sense of the community is blunted. Its citizens are taught to lie. Large numbers in the community are

(1) The Columbus Dispatch, Feb. 26, 1922. Letter from J. H. Kauffman.

(2) This Amendment was urged in the President's Message to Congress, January, 1922.

(3) Laylin, C. D., "The Ohio Tax Situation."

(4) "There is today at least eighteen billion dollars of taxable property in Ohio. The aggregate may exceed twenty billion dollars. The average tax rate in Ohio in 1920 is 1.63 per cent. If all the eighteen or twenty billion dollars of taxable property in Ohio were listed, an average tax rate of three-fourths of one per cent would produce more revenue in the 88 counties than was collected this year under an average rate of 1.63 per cent."—Report of the Auditor of State, 1920, p. 8. In 1921 the average rate in the state rose to 2.04 per cent and in the cities of the state reached 2.25 per cent.

oppressed by the burdens thrown upon them. They pay the taxes of their neighbors."(1)

TABLE XII—CHANGES MADE IN THE TEXT OF THE ORIGINAL SMITH LAW

Original Smith Law 1910	1911	1913	1914	1915	1917	1919	1921
5649-1	.....	.....	5649-1	.....	.....	.....	5649-1
Passed	.....	.....	Amended	.....	.....	.....	Reamended
.....	.....	.....	5649-1a	.....	.....	.....	.....
.....	.....	.....	Passed	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	5649-1b
.....	.....	.....	.....	.....	.....	.....	Passed
.....	.....	.....	.....	.....	.....	.....	5649-1c
.....	.....	.....	.....	.....	.....	.....	Passed
5649-2	5649-2	5649-2	.....	.....	.....	.....	.....
Passed	Amended	Reamended	.....	.....	.....	.....	.....
5649-3	5649-3	5649-3	.....	.....	.....	.....	.....
Passed	Amended	Repealed	.....	.....	.....	.....	.....
.....	5649-3a	.....	.....	.....	.....	5649-3a	5649-3a
.....	Passed	.....	.....	.....	.....	Amended	Reamended
.....	5649-3b	.....	5649-3b	.....	5649-3b	.....	.....
.....	Passed	.....	Amended	.....	Reamended	.....	.....
.....	5649-3c	.....	.....	.....	.....	5649-3c	.....
.....	Passed	.....	.....	.....	.....	Amended	.....
.....	5649-3d	.....	.....	.....	.....	.....	.....
.....	Passed	.....	.....	.....	.....	.....	.....
.....	5649-3e	.....	.....	.....	.....	.....	.....
.....	Passed	.....	.....	.....	.....	.....	.....
5649-4	.....	5649-4	.....	.....	.....	5649-4	.....
Passed	.....	Amended	.....	.....	.....	Reamended	.....
5649-5	5649-5	.....	.....	.....	.....	.....	.....
Passed	Amended	.....	.....	.....	.....	.....	.....
.....	5649-5a	.....	.....	.....	.....	.....	.....
.....	Passed	.....	.....	.....	.....	.....	.....
.....	5649-5b	5649-5b	.....	.....	.....	.....	.....
.....	Passed	Amended	.....	.....	.....	.....	.....
5649-6	.....	.....	.....	.....	.....	.....	.....
Passed	.....	.....	.....	.....	.....	5649-6a	.....
.....	.....	.....	.....	.....	.....	Passed	.....
.....	.....	.....	.....	.....	.....	5649-6b	.....
.....	.....	.....	.....	.....	.....	Passed	.....
.....	.....	.....	.....	.....	.....	5649-6c	.....
.....	.....	.....	.....	.....	.....	Passed	.....
.....	.....	.....	.....	.....	.....	5649-6d	.....
.....	.....	.....	.....	.....	.....	Passed	.....
.....	.....	.....	.....	.....	.....	5649-7	.....
.....	.....	.....	.....	.....	.....	Passed	.....

Prepared by the Ohio Institute for Public Efficiency.

SECTION 4—THE HISTORY OF THE SMITH LAW

The Tax Limitation Law, as passed by the legislature in 1910, stands today as only a remnant of its former self. At six of the eight sessions of the general assembly which have occurred since the passage of the original measure, changes have been made in its provisions. Amendment after amendment has been added until there is at the present time but one section of the law still standing in its original form. Table XII shows graphically the legislative history of the measure since its first enactment. This host of amendments, in addition to special and emergency measures which have been passed by the legislature destroys absolutely the intent of the original act, so that today a one-per cent limit on the tax rates in Ohio is little more than a legal fiction.

The original measure required the authorities of each taxing district to make a levy adequate to provide for all sinking fund and interest purposes. These levies were included within the ten mill maximum rate

(1) Quoted in the Columbus Dispatch, February 26, 1922.

limitation.(1) Amendments in 1914 gave such levies, including those for the payment of all previously existing obligations, preference to all other items in the local budgets.(2) These levies in 1913 had been removed from the ten mill limit but were still included within the fifteen mill limit.(3) It had been the original intention of Governor Harmon that they should be subject to no limits.(4) The measure which stands made the payment of debt impossible in many cases and compelled localities to meet existing obligations by the creation of further bond issues.

The intent of the 1910 law was to place the rates of taxation at a point which would prevent in future years the raising of more revenue than in the previous year save by certain stipulated percentages. The 1910 taxes were to be no greater than those of 1909. In 1911 the taxes were to be allowed to increase 6%, in 1912, 9%, and ever thereafter but 12% over those levied in 1909 and 1910.(5) This provision was in no case to prevent a ten mill total rate, and this rate might be exceeded in certain emergencies, or by popular vote, but was never to pass fifteen mills.(6) These provisions were repeated by the measure which became a law in 1911.(7) The effect of the law was permanently to limit every taxing district in the state to 112% of its 1910 income. Many of these districts had made small levies in the year 1910. It soon became apparent that, if their future levies were to be measured by what had been raised that year, they should soon be forced to go out of business.(8) Such a limitation as a permanent policy was seen to be impossible and absurd. It was repealed in 1913 at the next session of the general assembly.(9)

The interior limits, as established by the law of 1911(10) have also undergone revision. The limitations of three mills for counties, five mills for municipalities, two mills for townships, and five mills for school districts (exclusive of special levies) were changed by the legislature in 1919 to limits of three, five, one and one-half and three mills respectively.(11) In 1921, the schools were taken care of by an alteration in the state general school levy,(12) and further exceptions were provided to these limits.(13)

The Budget Commission has undergone similar alteration. The 1911 measure made the membership consist of the county auditor, the mayor of the largest town in the county and the prosecuting attorney.(14) In 1914 an amendment displaced the last named official and gave his seat, in urban counties to the city solicitor and in rural counties to the presi-

(1) 101 O. L. 430.
(2) 104 O. L. 12.
(3) 103 O. L. 552.
(4) Letter, Mr. Edge to Mr. Atkinson.
(5) 101 O. L. 430.
(6) 101 O. L. 431.
(7) 102 O. L. 269.
(8) Laylin, C. D., "The Ohio Tax Situation."
(9) 103 O. L. 553.
(10) 102 O. L. 270.
(11) 108 O. L. Part II, p. 1305.
(12) 109 O. L. 148.
(13) 109 O. L. 146.
(14) 102 O. L. 271.

dent of the board of education in the largest city school district.(1) Further revision in 1917 removed these men from office and placed on the commission in their places the county treasurer and the prosecuting attorney of the county, who, with the county auditor, constitute its present membership.(2)

The legislature in 1910 saw that a ten mill absolute limit would work great hardship in the case of public emergency, and consequently provided for the exemption of some levies from all limits. Levies caused by the destruction of roads, the burning of county buildings or protection against threatened epidemics were so exempted.(3) In 1913 this exemption was extended to levies caused by the destruction of school houses by fire(4) and later to those levies which were neecssitated by the great flood of that year.(5) Other fire an dtornado levies were similarly exempted.(6) Exclusion of levies from the limit provisions of the law consequently presented itself as an easy means of meeting the financial problems of the political subdivisions. The legislature in 1917 provided for additional bond issues outside the Smith Law limitations to take care of current deficits wherever they might be discovered.(7) "This procedure increased the debt burden about forty million dollars and brought the average tax rate of the state up to 1.63."(8) In 1919 boards of education were authorized to levy taxes outside of all limitations for the purpose of funding any deficiencies in current revenues.(9) In 1921 the legislature removed a one and one-half mill levy for library purposes from all limits,(10) and granted similar immunity to school boards in their issue of further obligations for the purpose of funding existing deficiencies.(11) Exemption was likewise granted to the levy of the state government for its highway improvement fund.(12) Wherever a real financial need presented itself, the legislature caused the limit law to become inoperative.

But the legislature did not monopolize the right legally to disregard the Smith Law rate limits. This power was also granted to the voters of each taxing district. The original measure permitted the citizens of any locality to consent, by vote, to a rate in excess of ten mills provided the fifteen mill limit was observed.(13) In 1919 this privilege was extended in order to permit the citizens to approve of certain tax levies exceeding fifteen mills. By this means voters could make possible interest and sinking fund levies outside of all limits on account of bonds issued prior to January 20, 1920.(14) Their consent, when asked, was usuallly gained, since its refusal would, in many cases, have necessitated the repudiation of their local debts. The law, also, made possible, by vote,

(1) 104 O. L. 273.
(2) 106 O. L. 180.
(3) 101 O. L. 43, Sec. 4.
(4) 103 O. L. 527.
(5) 104 O. L. 183.
(6) See G. C. 5649.
(7) 107 O. L. 575.
(8) Auditor of State Report, 1920, p. 12.
(9) 108 O. L. 694.
(10 109 O. L. 351.
(1)) 109 O. L. 191.
(12) 109 O. L. 161.
(13) 101 O. L. 431.
(14) 108 O. L., Part II, p. 1199.

levies for all school purposes to the extent of two mills beyond all other existing limits.(1) But, finally, in 1921, the legislature reduced the entire pretension of rate limitation to an absurdity, by making possible in any and every political subdivision for any and all purposes any needed tax rate, with the sky as the limit, upon a sixty per cent affirmative vote of the electors of that subdivision.(2) It further provided, that in the case of a majority vote which fell short of the stipulated sixty per cent, the taxing officials might still levy, if possible, three additional mills within the fifteen mill limit.(3) The Smith Law today is a legal fiction. Its slow death has been well described by Mr. Laylin in these words:

> "Extravagant claims had been made for the Smith One Per Cent Law. It was heralded as a compact with the taxpayers of the state; it was to usher in a new era of economical and efficient local administration. It was thus early given such an aspect of sacredness that no one ever dared, until recently, to speak of repealing or revising it radically; yet the pressure of local needs was irresistible. Revision had to come and it came in the worst possible way. For successive general assemblies in Ohio loudly proclaiming their absolute and undying loyalty to the Smith One Per Cent Law and recoiling in horror from any suggestion that it be generally and scientifically revised, have time and again yielded to the pressure of special needs and of special interests represented by powerful lobbies and have created direct and implied exceptions to it."(4)

TABLE XIII—SOME OHIO TAX LEVIES AND THE RATE LIMITS TO WHICH THEY ARE SUBJECT

LEVIES SUBJECT TO THE TEN MILL LIMIT—

STATE LEVIES

Educational Equalization Fund, .015 mills, G. C. 7575.
State School Levy retained by County, 2.65 mills, G. C. 7575.

COUNTY LEVIES (3 mill limit)

General County, G. C. 5627, 5630.
Children's Home, G. C. 3123.
Building, 2 mill limit, G. C. 5630, 5638.
Indigent Soldiers, .5 mill limit, G. C. 2942.
Blind Relief, .3 mill limit, G. C. 2969.
Mothers' Pensions, .2 mill limit, G. C. 1683-9.
Poor Fund, G. C. 2529.
Additional Poor Fund, .6 limit, G. C. 2530.
Care of Sick, .2 limit, G. C. 3138-2.
General Hospital, G. C. 3133.
Tuberculosis Hospital, G. C. 3141, 3152.
Juvenile Court and Detention Home, G. C. 1671.
Judicial, .025 to 2. mill limit, according to size, G. C. 5637.

(1) 108 O. L. 925.
(2) 109 O. L. 307.
(3) 109 O. L. 308.
(4) Laylin, C. D., "The Ohio Tax Situation."

Agricultural Society, .05 limit, G. C. 9887.
Agricultural Society, 1. mill limit, G. C. 9894.
Agricultural Fairs, .1 mill limit, G. C. 9891.
Experiment Farm, 1177-1.
Library, .5 limit, G. C. 2456.
Hospital for Insane, .3 mill limit, G. C. 5631.
Creation of Work House, G. C. 4146.
Maintenance of Work House, .1 mill limit, G. C. 4149.
Bonds for County Buildings, G. C. 2434.
Civil War Monument, .5 mill limit, G. C. 2453.
Memorial Building, G. C. 3063-3068.
Ditch, .5 mill limit, G. C. 6492, 109 O. L. 299.
Bridge Repair, .2 mill limit, G. C. 5643.
Bridge Purchase, 1. mill limit, G. C. 7571.
Clearing Stream, .5 mill limit, G. C. 6742.
County sewer bonds, G. C. 6602.
Convict Labor, G. C. 2242.
Election, G. C. 4991, 5054.
Sinking Fund for Indebtedness Incurred after June 2, 1911, without vote.

TOWNSHIP LEVIES (1.5 limit)

Current expenses, .25 to 1. according to size, G. C. 5646.
Poor relief, 1.5 limit, G. C. 5647.
Liabilities for Poor, .6 mill limit, G. C. 5648.
Township Hall, $2,000 limit, by vote, G. C. 3260.
Hearse or Burial Vault, by vote, G. C. 3285.
Drilling oil or gas well, .5 limit, by vote, G .C. 3292.
Town Hall, 4 mill limit, by vote, G. C. 3396.
Public Buildings, by vote, G. C. 3401.
Public Library, 1 mill limit, by vote, G. C. 3404.
Private Library, .5 mill limit, G. C. 3407.
Memorial Building, by vote, G. C. 3410-3.
Hospital, 1 mill limit, G. C. 3411.
Parks, 1 mill limit, G. C. 3423.
Cemeteries, $2,000 annual limit, G. C. 3444.
Noxious weeds, G. C. 5944.
Normal Schools, 2 mill limit, G. C. 7899.
Election, G. C. 5054.
University, 2 mill limit, G. C. 7673.
Indebtedness Incurred after June 2, 1911, without vote.

SCHOOL DISTRICT LEVIES (3 mill limit)

Free School Books, G. C. 7739.
Library, 1.5 limit, G. C. 7639.
Joint Library, 1 mill limit, G. C. 7633.
Indebtedness Incurred after June 2, 1911, without vote.
Social Center Fund, .2 mill limit, G. C. 7622-7.
University, 2 mill limit, G. C. 7673.
Election, G. C. 5054.

MUNICIPALITIES (5 mill limit)

Street Sprinkling, G. C. 3748.
Library Bonds, .25 mill limit, G. C. 4013.
Library Association, 1 mill limit, G. C. 4019.
Art Gallery, .25 limit, G. C. 4020.
Free Hospital, 1 mill limit, G. C. 4021.
Hearse or Vault, by vote, G. C. 4180.
Municipal Pawnshop, .2 mill limit, G. C. 4205-3.
Municipal Waterworks or Electric Plant, 5 mill limit, G. C. 4360.
Sanitary Plants, G. C. 4475.
Sanitary Police Pension Fund, .03 limit, G. C. 4637.
Election, G. C. 5054.
Social Center Fund, .2 mill limit, G. C. 7622-7.
University, 2 mill limit, G. C. 7673.
Grade Crossing elimination, G. C. 8891.
Indebtedness Incurred after June 2, 1911, without vote.

LEVIES OUTSIDE TEN, WITHIN FIFTEEN MILL LIMIT—

COUNTY LEVIES

Road Fund, 2 mill limit, G. C. 6926.
Road Fund, 5 mill limit, G. C. 1222.
Road Fund, 2 mill limit, G. C. 6956-1.

SCHOOL DISTRICTS

Additional Tuition Fund, 1 mill, G. C. 7587.

TOWNSHIPS

Road Funds, 3 mill limits, G. C. 3298-15d, 3298-44, 6927.
Road Funds, 2 mill limits, G. C. 3298-18, 1222.
Road Funds, by vote, G. C. 3298-20.

MUNICIPALITIES

Municipal Universities, .5 mill limit, plus .05 for astronomical observatory, G. C. 7908.

ALL SUBDIVISIONS

Levy by Vote, H. B. 34, O. L. 109.
Sinking Fund for Indebtedness Incurred Prior to June 2, 1911.
Sinking Fund for Indebtedness Incurred After June 2, 1911, by vote.
Sinking Fund for Bonds Issued Under H. B. 567, (108 O. L. 709).

LEVIES OUTSIDE ALL LIMITS—

STATE

State Highway, .5 mill, G. C. 1231-2 (109 O. L. 360).
Educational Building Fund for 1921-25, .125 mill.
Institutional Building, 1921-23, .25 mills, (109 O. L. 360).

COUNTIES

Road Fund, by vote, G. C. 6926-1.
Road Fund, 1 mill limit, G. C. 1222.
County Buildings, G. C. 5629, 5649-4.
Memorial Building, by vote, G. C. 3601-1.
Library District, between .2 and .3, 109 O. L. 351, Sec. 3, 6.

SCHOOL DISTRICTS

Emergencies, 3 mill limit, G. C. 5649-4.
Destroyed school houses, G. C. 7630-1.
Library, 1.5 mills, 109 O. L. 237.
Interest and sinking fund for bonds issued under H. B. 254, 109 O. L. 191, Sec. 5.

TOWNSHIPS

Roads, 2 mills, G. C. 1222.
Interest and sinking fund, G. C. 3410-3.

MUNICIPALITIES

Bonds, G. C. 5649-6d.
Emergencies, 3 mill limit, G. C. 5649-4.
Threatened Epidemic, G. C. 4450, 4451.
Firemen's Indemnity Fund, .3 limit, 109 O. L. 90, Sec. 4.
Interest and Sinking Fund for Bonds Issued Under H. B. 4, 109 O. L. 19.

ALL SUBDIVISIONS

Flood of 1913.
Conservancy district, .7 limit, 109 O. L. 350.
Sinking Fund for Bonds Outstanding January 20, 1920, by vote.
Sinking Fund for Bonds Issued Under H. B. 567, O. L. 108, by vote.
Levy by vote of 60% of electors for years 1921-23, 109 O. L. 307.

(Not all of the specific levies named in the first section are subject to the interior limits given for the subdivisions. This classification, while not all-inclusive, gives adequate proof of the complexity in present tax levies. In cases where no specific citation is given, the information was taken from the Tax Rate Sheet of the Ohio Tax Commission for 1921.)

The tax limit law as it stands is practically unintelligible. A glance at Table XIII will indicate the almost hopeless complexity which has been introduced into the measure by repeated legislative exceptions to the different limits. There are now three classes of tax levies in Ohio; those which come within the ten mill limit, those which do not come within the ten but do come within the fifteen mill limit, those which are outside all limits. When there is added to this the provisions of interior limits with similar exceptions, the law assumes the appearance of a Chinese puzzle, the solution of which baffles human intelligence. The county auditors, in whose hands lies the adjustment of levies, are almost entirely at a loss to determine whether many levies do or do not come within certain limitations. Even Mr. Laylin of the Attorney-General's

office, who himself phrased the law with its many amendments, upon being introduced to the Tax Association convention as "the only man in Ohio who knows anything about the Smith law," disclaimed such knowledge, saying, "There is nothing clear about any of the limitation provisions or the levies subject to different limitations."

Not only has the original law become unintelligible, but its spirit is unobserved. In 1920 three political subdivisions in Ohio were levying thirty mills or over, thirty-one were levying twenty-five mills or over, seven hundred and fifty-one were levying twenty mills or over and over three thousand of the four thousand taxing districts in the state were exceeding the fifteen mill limit. In only fifteen of the eighty-eight counties of Ohio were all the taxing districts levying less than twenty mills. There was no county in which the levies were all within the fifteen mill limit. The average tax rate of the state increased from eleven mills in 1911 to more than twenty mills in 1921. In the latter years the average municipal tax rate exceeded twenty-two mills, the actual rate running in some cases nearly to thirty. The increase in rates and the existing levies (1921) are shown in Tables XIV and XV.

TABLE XIV—AVERAGE TAX RATE IN OHIO 1910-1921

Year	Rate	Year	Rate	Year	Rate
1910	30.50	1914	12.67	1918	13.68
1911	11.06	1915	13.55	1919	15.34
1912	11.08	1916	13.28	1920	19.24
1913	11.43	1917	13.33	1921	20.47

(Figures for 1910-15 computed from Tax Commission Reports as to the total amount of taxes levied and the total tax duplicate. Figures for 1916-20 from Tax Commission Report for 1920. Figures for 1921 from information furnished by the Tax Commission.)

TABLE XV—TAX RATES IN OHIO IN 1921

Average of State	20.476	
Average Rural	16.706	
Average City & Vill.	22.225	
Average City	22.578	
Average Village	19.932	
Highest Rural	29.5	Murray S. D., Hocking Co.
Lowest Rural	7.2	Coldwood Twp., Cuyahoga Co.
Highest City	29.6	Dayton
Highest Village	34.2	Shawnee Corp., Perry Co.
Lowest City	13.4	Findlay Corp., Hancock Co.
Lowest Village	12.2	Enon Corp., Clark Co.

(From information furnished by the State Tax Commission.)

As stated above the emasculated Smith Law is unintelligible and its spirit unobserved. It is a source of irritation and confusion to taxing officials. It affords no protection to the property owner, who in many cases finds himself paying rates which are more than double its limits. Intelligent opinion in Ohio generally favors the abolition of the law. As a means of securing full value return of real estate, as a means of coaxing intangible property onto the tax list, as a means of protecting the tax payer against unequal burdens and exhorbitant rates, it has failed in its purpose. Rate limitation as a *sole* means of achieving these ends has

proven ineffectual. This does not mean, however, that rate limitation, if accompanied by adequate assessment provisions, would be fruitless of results. The numerous exceptions, permanent and temporary, which have been made to the provisions of the law, have been necessitated by the general practice of undervaluation of realty and tangible personalty and the non-return of intangibles. The principle of rate limitation does not stand or fall with the Smith Law. But this principle can never succeed in operation unless accompanied by greater administrative efficiency in the assessment of property than that which exists under the present laws in Ohio.

SECTION 5—EFFECTS OF THE SMITH LAW

Taxing officials in Ohio, confronted by the limitation fixed by the Smith Law, in the amount of their possible revenues and still finding their levying power restricted despite the many temporary and permanent exceptions to its provisions furnished them by an obliging legislature, had three courses of action open to them. The first of these was to curtail expenditures, either by the elimination of waste and the introduction of greater efficiency into public administration, or by the elimination of essential governmental activities. The second course was to make payment of necessary debts by encouraging creditors to bring suit against their political subdivision, obtaining judgments which might legally be paid from existing sinking funds. The third course, and the one most frequently and universally adopted, was to provide for necessary current expenditures by the extension of bonded indebtedness.

There is no evidence to support the contention that the tax limit law promoted public economy. There are no carefully prepared local budgets and no organizations exercising a scientific control over expenditures in Ohio. The City of Cincinnati, it is true, although facing a deficit of two million dollars, did, between January and April of 1922, by the curtailment of municipal activities, sufficiently reduce its expenditures to enable is to live within its income. The experience of Cincinnati, in its emergency, is, however, an exceptional case which does not afford a true picture of the usual procedure of the taxing districts in the state.

PART A—LIMITATION ON LOCAL ACTIVITIES—

Though it is improbable that the levy limits introduced efficiency into public affairs, it is certain that they did seriously hamper the essential activities of many of the taxing districts of the state. While the enactments of the legislature were compelling the assumption of additional obligations by the local units,(1) and economic law was grimly forcing upward the cost of these functions, the budget committees in the eighty-eight counties were busily at work paring and slicing the estimates of needed funds presented to them by the local officials. A comparison made for 1918 (shown in Table XVI) demonstrated that in that year these bodies carried their paring function far enough to refuse over thirty million dollars of the amount asked for by the taxing districts of the

(1) For example: Mothers' Pensions (G. C. 1683-9), Firemen's Indemnity Fund (G. C. 4647-3, Teachers' Pensions (G. C. 7896-55), $800 minimum salary for teachers (G. C. Sec. 7600), and the like.

state. It is impossible to determine the extent to which this refusal actually hampered local governments because of their practice, mentioned above, of placing their estimates far above their needs in order to make allowance for the inevitable reductions of the budget commissions. That this entire thirty million dollars represented excessive requests, is very improbable. This being granted, it follows that the local units were in that year permitted insufficient funds properly to conduct their necessary activities.

TABLE XVI—EXCESS OF THE AMOUNT ASKED TO BE LEVIED OVER THE AMOUNT ALLOWED BY THE BUDGET COMMISSIONS IN THE VARIOUS CLASSES OF SUBDIVISIONS IN SEVENTY COUNTIES OF THE STATE

	Excess including levies by vote of the people	Excess excluding levies by vote of the people
County Budgets	$ 2,273,674	$ 2,674,627
Township Budgets	547,798	559,548
City Budgets	12,615,006	12,972,950
Village Budgets	900,295	921,634
City School Budgets	7,878,785	14,285,789
Village School Budgets	1,141,380	1,604,994
Special School Budgets	128,803	186,440
Township School Budgets	971,153	1,173,163
	$26,456,894	$34,379,145

It is estimated that the remaining eighteen counties will increase the total approximately 12%. (From the Report of the Special Joint Taxation Committee of the 83rd General Assembly, p. 21.)

The limitations have worked a particular hardship in the case of municipal governments. Many of the cities are in serious financial straits. They are in the main still subject to the same limitation on their tax levying power as in 1911 and 1913. None of the permanent changes made in the limit law were extended to help them out of their difficulties. It is only by virtue of repeated temporary exceptions to the measure that they have been able to keep above water. A radical change in the Ohio tax system is needed to rescue many of our municipalities from the danger of bankruptcy.(1)

From all parts of the state come reports of similar embarrassment in the case of village and school activities. The auditor of Muskingum County states that because of the failure of its citizens to vote relief the corporation of Roseville can neither pay its debts nor carry on its necessary activities. The auditor of Preble County reports that all the villages in that county have been compelled to curtail needed activities on account of the lack of funds. All the villages in Erie County are seriously handicapped because of the granting of full quotas to other governmental units and the cutting of the village budgets to keep the total levies within the ten mill limit. In the village of Jeromeville in Ashland County a three mill legal return on the property valuation would yield only eight thousand dollars for school expenses. The district is enabled to pay its

(1) Laylin, C. D., "The Ohio Tax Situation."

twenty-three thousand dollar school bill only because of the exceptions to the law which the county auditor has been able to discover. Camden Village School District in Preble County is dropping many courses of instruction and borrowing money to pay the current expenses of the year to come. In Delaware County the budget commission reduced the rock-bottom requests of school districts by cuts of from one to five thousand dollars in nearly every case. In Ashland County School districts citizens have paid school expenses from their own pockets, and essential school equipment has of necessity been secured by subscription or from the proceeds of public entertainment. "Even in the case of some of the larger cities.....the proportion of the school budget that has necessarily been spent on salaries.....has reduced the amounts available for the building program to such a point that very unsanitary and unwholesome arrangements have been made for a part of the school population. Basement rooms, portable rooms, inadequate heating, lighting and toilet facilities—shortcomings of these and other sorts have been freely cited....."(1) Such illustrations might be multiplied *ad infinitum.*

Nearly four hundred of the twenty-five hundred school districts in the state are unable to carry on their work without assistance from the central government. More than three hundred teachers within these districts serve from two to five months without pay. The funds from which this assistance is given come from the state educational equalization levy in the property tax. Nine hundred thousand dollars were thus extended in state aid in 1921. Twelve hundred thousand were available for distribution in 1922, all of which would be needed in that year.(2) This money is distributed only to those districts which are making their full legal levy within limitations, three extra mills without limitations by vote of their electors and still are suffering deficits.(3) The fact that four hundred districts fulfilled these requirements gives ample proof that school activities cannot be financed within the tax limits fixed by law and demonstrates the necessity of maintaining the state levy in the property tax for the support of the less able educational units. Nevertheless to a large extent these districts owe their embarrassment to the limit measures which make it possible, in some cases, for village debt and county and village expense levies to take such a large portion of the ten mill maximum rate as to make it impossible for them to derive adequate funds from the regular levy, in addition to other sources, to meet their needs.

PART B—THE PILLAGING OF SINKING FUNDS—

Section 4506 of the Ohio General Code authorized the payment from sinking funds of all judgments found against corporations except in condemnation of property cases. Section 4517 empowers the trustees of the sinking fund to sell or use any of the securities in their possession for the satisfaction of any obligation under their supervision. Taxing officials were not slow to find in these provisions through encouraging

(1) Report of the Special Joint Taxation Committee of the 83rd General Assembly, p. 28.
(2) Statement by Mr. Swiggert, Dept. of Public Instruction, Columbus.
(3) 109 O. L. 14.

friendly suits an easy means of securing those funds for current operation which could not be raised by a levy on property because of the existence of the tax limit. There are no figures in existence to show the extent to which local officers availed themselves of this expedient. Mr. Peckinpaugh of the state auditor's office does not believe the practice to be very widespread. It is known, however, that it was made use of in Perry County, Ashtabula County, Delaware County and Cuyahoga County.(1) In the city of Delaware the government has paid its ten thousand dollar annual bill to the water company for the last five years by allowing this concern to bring suits.(2) In 1922, in the city of Cleveland, obligations totaling nearly one million dollars were paid in this manner.(3) The practice was recognized by the Special Committee of the General Assembly in 1919 and condemned in these words:

> "These raids upon the sinking funds are unfortunately perfectly legal but they have the effect of defeating the purpose of the constitutional requirement for sinking fund levies. Such practices and the laws which make them possible cannot be too strongly condemned, for, in addition to the evils of deficit financing which they encourage, they have helped to divert attention from the more important problems of taxation reform which would otherwise have been forced upon the state long ago."(4)

PART C—INCREASED INDEBTEDNESS—

The Smith Law as originally enacted placed a rigid limit upon the possible income of local governments in Ohio. It made imperative the payment of the interest and principal of outstanding bonds as a primary obligation upon these communities. This provision was made with the laudable purpose of placing the taxing districts of the state upon a cash basis. The act, however, included this debt payment within the limited income fixed by law, without providing any means which would enable heavily indebted districts to catch up on their payments and start business with a clean slate. At the same time it neglected to forbid further borrowing for the payment of current expenses. The result of this policy, which has been characterized by Mr. Donahey in one of his reports as tightening the spigot and neglecting the bung, was that the law compelled some taxing districts and encouraged others to borrow money for the payment of current expenses. This method, in a short time, became the favorite means of avoiding the stringent limitations fixed by the Smith Act. Great quantities of bonds, bearing maturity dates as far in the future as prospective purchasers were willing to accept, were issued for the purpose of obtaining funds to carry on the daily activities of government.

(1) County Auditors' statements.
(2) Statement by Auditor Young of Delaware County.
(3) Letter from John A. Zangerley, Auditor.
(4) Report of the Special Joint Taxation Committee of the 83rd General Assembly, p. 47.

In the City of Columbus the officials provided for the collection of garbage by an increase in the municipality's bonded indebtedness.(1) In Cleveland:

> "out of the proceeds of 25 and 35 year bonds (issued in 1914) motorcycles, horses, automobiles, a boat and pulmotors to the amount of $9,468.46 were purchased and in 1915 a Ford automobile was purchased from the proceeds of 30 year bonds. In 1919 patrol wagons, automobiles and horses costing $19,397 were purchased from the proceeds of a twenty-four year bond issue. How long since will the fourteen horses concerned have departed this life when the bonds are finally paid for?(2) Ten years should be the maximum period for funding the purchase of police apparatus if it is to be funded at all. The buying of horses from the proceeds of a twenty-four year bond is an example second only perhaps to the classic one of a certain American city buying second-hand fire hose with a fifty year bond."(3)

Section 5656 of the General Code of Ohio provided for the refunding of the indebtedness of counties, townships and school districts which were unable to make payment because of the existing tax limits. Although this provision gave no authority for the creation of new obligations for the payment of current expenses, it was, in practice, so used in Adams, Ashland, Champaign, Holmes, Monroe, Perry and other counties. This expedient, resorted to without the consent of the electors, after the exhaustion of existing funds, was used to make payment of salaries to school teachers, county officers and to provide for other current activities.(4) Other frequent legal provisions have made possible the issuance of bonds for the purpose of meeting deficits in current revenues. A wholesale funding of deficits has been practiced by the cities of Ohio. The City of Cleveland, for instance, has issued deficiency bonds to the extent of $12,000,000 in the last four years.(5) These practices reveal a deplorable state of affairs in the financing of local activities in Ohio.(6)

The inevitable outcome of this policy of borrowing to care for current needs has been enormously to increase the bonded indebtedness of the taxing districts of the state. A comparison made by the Ohio Institute for Public Efficiency shows that the years from 1880 to 1920 witnessed an 80% increase in the population of Ohio, a 585% increase in the valuation of its taxable property and an 1138% increase in its public debt. The great part of this last increase has occurred since the passage

(1) In 1912, $55,000 were borrowed for this purpose (Ordinance 26,847); in 1913, $7,000 (Ordinance 27,660); in 1914, $50,000 (Ordinance 28,046); in 1915, $45,000 (Ordinance 28,638); and since that year funds have been secured through the issue of general deficiency bonds.

(2) Today the horses are all dead and the bonds have beene refunded, Statement by C. A. Dyer.

(3) Letter from J. A. Zangerley, County Auditor, Cuyahoga Co.

(4) County Auditors' statements.

(5) Letter from J. A. Zangerley, County Auditor.

(6) Several city school districts have overdrafts in their sinking funds. They are: Marion, with a shortage of $3,230; Mansfield, $16,177 ;Bucyrus, $10,127; Salem, $9,042, and Galion, $126." —Cleveland Plain Dealer, April 24, 1922.

of the Smith Law in 1910. Table XVII gives the figures for this increase in the counties, cities and school districts of the state since 1880.

TABLE XVII—THE INCREASE IN PUBLIC DEBTS .

Year	Counties	Schools	Cities	Total Debt(1
1880	$ 2,853,356	$ 1,185,907	$ 36,240,281	$ 41,297,743
1890	6,974,779	3,103,830	52,963,730	62,992,956
1900	10,521,247	7,153,895	77,299,433	96,193,513
1910	26,979,085	16,949,729	147,174,234	187,574,322
1915	56,074,442	48,707,647	223,293,549	356,928,968
1920	77,096,116	100,152,287	288,969,519	510,266,465

TABLE XVIII—NEW DEBTS CREATED VS. OLD DEBTS PAID 1920(2)

	Old Debt Paid	New Debt Created
City Debt	$16,468,810	$36,524,540
County Debt	8,826,618	15,820,643
Village Debt	3,368,317	6,881,524
School Debts(3)	4,659,031	27,487,444
Total	$33,322,776	$86,724,151

TABLE XIX—THE PERCENTAGE OF THE OHIO TAX DOLLAR USED FOR SINKING FUND AND INTEREST PURPOSES

Year	Cities Number	Cities % of $ for S. F.	Villages No	Villages % of $ for S. F.	Village School Districts No	Village School Districts % of $ for S. F.
1915	80	39.9	..	....	..	....
1919	77	45.6	..	....	..	....
1920	80	48	48	55.9	45	22.6
1921	93	50.7	89	54.9	83	26.2

Cities	1921	1920	Villages	1921	1920
Nelsonville	83.7	....	Shawnee	90.	....
Mansfield	83.6	86.6	Caldwell	88.9	....
Hamilton	84.5	....	Belle Center	98.	....
Dennison	86.5	....	Chardon	....	85.

(Figures based upon original material in the office of the Legislative Reference Bureau.)

From 1910 to 1920 the population of Ohio increased 21%, its taxation 117%, its public debt 172%.(4) In this period the total debt of the state increased over $322,000,000, twice as great an increase as occurred in the entire nineteenth century.(5) It is true that not all of this indebtedness represents an actual charge against the taxpayers. Some of the debt, such as the bonds issued by self-sustaining public utilities and on account of special improvements to property, will provide for its own payment. As only a small portion of the total debt is of this nature, the

(1) Includes also village and township obligations. From the Auditor of State Report, 1920, pp. 233, 235, 239, 245.

(2) Exclusive of townships.

(3) Of this, the city schools paid $2,903,595 and incurred $18,166,967. From the Auditor of State Report, 1920 ,pp. 241, 243.

(4) Auditor of State Report, 1920, p. 11.

(5) Ibid, p. 10.

figures do show an enormous increase. Table XVIII gives a comparison between the old debts paid and the new debts created in the taxing districts of Ohio, in the year 1920, revealing a total increase in their indebtedness in that year of over fifty--three million dollars. Table XIX shows the steady increase over a period of years, of the percentage of the Ohio tax dollar which is used to pay debt charges. In 1921 over half of the average city and village tax dollar went to pay interest on and provide sinking funds against existing indebtedness. In the city of Dennison 86½c of the taxpayers' dollar was used for these purposes. In Belle Center 98c was so used, leaving but 2c of the dollar to carry on the current activities of the corporation. It is apparent that Ohio taxing districts have been headed toward disaster over the road of bond issues. An individual who attempted to pay the large portion of his current expenses with borrowed money would be termed a fool, yet this has been the common practice of local governments in Ohio for the past decade. With the increase in bonded obligations went higher tax rates, aiming to extinguish this indebtedness. With the increased rates went heavier burdens to the taxpayer whose yearly tax dollar contributed less and less as time went on, toward the conduct of those activities of government which his interests demanded.

The sad state of local finances in Ohio today has come as the inevitable result of the failure of the legislature to provide a limitation on the increase of indebtedness at the same time that the tax limit measure was enacted. Because of this defect the Smith law, instead of compelling the full valuation and return of property for taxation at equitable rates, merely operated to force the taxing districts of the state to finance their current activities from long-time loans rather than from current revenues. The legislature in 1910 should have placed the emphasis upon the limitation of indebtedness rather than upon the limitation of tax rates if the local units were to be prevented from stumbling into the financial morass in which they now flounder. Said the Special Joint Taxation Committee of the 83rd General Assembly:

> "It is of less significance that the tax rates be rigidly limited than it is that public debts be restricted. It matters far less how much a community is spending provided it is paying its way as it goes, while it is of much greater importance to make certain that the present generation is not accumulating vast charges against posterity."(1)

It was the opinion of this committee that provision should be made to prevent the use of public credit for the evasion of taxation, through its application to cover deficits or provide for short-time improvements. In order to place the taxing districts of the state definitely on a "pay as you go" basis, they recommended to the legislature the initiation of a constitutional limitation on public borrowing. The problem was sufficiently important, they said, to warrant the inclusion of such an amendment in the state constitution in order to secure it forever from the dangers of attacks by would-be tax evaders. Their recommendation was

(1) Report of the Special Joint Taxation Committee of the 83rd General Assembly, p. 39.

never carried out. In the year 1921, however, the principle was embodied in the Griswold Act[1] and became a part of the law of the state.

This measure prohibits the practice of borrowing to pay ordinary current expenses and includes as a current expense the acquisition or construction of any asset having an estimated life or less than five years.[2] It permits the issuance of bonds for current needs only in the case of public emergencies or in anticipation of certain and immediate revenues. It provides that the maturity date of no bond shall extend beyond the life of the assets to be secured with its proceeds and classifies these assets on the basis of their estimated maximum life. It provides that all future bond issues shall be serial in nature, the making of each issue to be accompanied by definite provision for the payment of its interest and principal. It makes further provision for the protection of sinking funds, looking toward their eventual elimination. And finally, it places a numerical total limitation upon the bonds which may be issued by any subdivision in proportion to its tax duplicate. Over the road provided by this measure, Ohio may commence its journey back to sound finance.

(1) 109 O. L. 336.

(2) It is still possible until January 1, 1924, to borrow money for the payment of certain obligations representing current expenses, in the opinion of the Attorney General, No. 2728. (December 22, 1921.)

CHAPTER IV—REMEDIES

Section 1—The Present Situation in Ohio

General dissatisfaction exists with the tax system of the state of Ohio today. The holders of real estate, bearing the brunt of the tax burden, are endeavoring to lighten their load by securing undervaluation for their property. The public utilities, assessed by the Tax Commission of the state, are crying out at the widespread evasion of taxation by all other types of property. The conscientious holders of intangible personal property are being penalized for returning it. In general intangibles are being permitted to escape taxation almost entirely Tangible personal property is avoiding the tax wherever it can, and when it is returned, pays taxes upon only a portion of its full value. One man finds himself groaning under heavy tax burdens while his neighbor makes no contribution at all to the public purse. Citizens everywhere are suffering under a vast accumulation of debts from the past which offer them no possible present advantage. And the tax limit law, called by courtesy a one-percent law, because of repeated exceptions to its provisions, is impotent to protect the citizens of the state from the twenty and thirty mill rates with which they find themselves afflicted. This is the tax tangle which future legislatures in Ohio must set themselves to the task of unraveling. It is the purpose of the following sections of this chapter to point out, so far as possible, the steps which must be taken toward the immediate amelioration and eventual elimination of the unhappy situation which has been pictured above.

Section 2—Assessment Procedure

The laws of Ohio until 1910 required decennial appraisals of all property. In that year, with its other tax legislation, the General Assembly provided that these reappraisals should become quadrennial. In 1915, however, before the first of these quadrennial appraisals had taken place, the legislature passed the Warnes Law,(1) requiring annual assessment of real and personal property by centrally appointed tax commissioners. This measure was never given an opportunity to demonstrate its merits. During the one year it was in operation it did bring about a considerable increase in property returns. It was, however, repealed in 1915 because of the general opposition to its replacement of locally elected assessment officials by the political appointees of the state government. It was followed by the Parrett-Whitmore law,(2) which was similarly short-lived, being declared unconstitutional in 1916.(3) In the following year the legislature passed the initiative in reassessment to the hands of the county auditor and commissioners, subsequently (1919) granting the tax commission the power to order and compel reappraisals. This is the system which exists today. Its inadequacy is demonstrated by the facts as to existing inequalities in realty assessment which were cited above.

(1) 103 O. L. 786-804.

(2) 106 O. L. 246-272.

(3) 95 Ohio State Reports 166, The State, ex rel Godfrey vs. O'Brien.

Many interests in the state today favor a return to the idea of compulsory periodic reappraisements. This plan is supported by the members of the tax commission and is urged upon the legislature in a resolution passed by the Ohio Tax Association in January, 1922. It is undoubtedly a step toward a fairer distribution of tax burdens in Ohio, but is scarcely thorough-going enough to afford a final solution. Justice in the administration of the property tax can never be reached until all property subject to it is returned at its full value. This return can only be secured by a policy of continuous, centrally administered assessment such as that provided by the ill-fated Warnes Law. Assessment districts should be larger, embracing entire counties. The present inefficient local officers should be replaced by full time, highly paid assessing experts, who should practice continuous assessment in their districts from one year's end to another. These officials might either be appointed by the central Tax Commission or elected within their own districts. Although appointment might increase the number of political plums to be handed out by the state government, this surely is a lesser evil than the chaos which exists today in the assessment of Ohio property. In any case the power of removal of these officers for malfeasance or nonfeasance should be vested in the State Tax Commission, which body should be required to prescribe definite rules and directions for the procedure to be followed in assessment. Taxpayers might still be given the right of appeal from the findings of these officers to the County Board of Revision and the State Tax Commission, which could retain their existing functions of equalization and review. This is the only type of administration which can ever be expected to secure the permanent return of real estate for taxation at its true value in money.

The returns of merchants' and manufacturers' stocks should be made to the Central Tax Commission. By this means alone, through the enforcement power of the state body, can these types of property be made to bear their fair share of the tax burden. Automobiles, farm stock and machinery might be assessed by the county official as a part of his regular duty. There remain still other classes of tangible personal property, the taxation of which today has been justly characterized as a "howling farce." This includes household goods, musical instruments, jewelry, books and clothing. This property, relatively small in amount, might well be exempted entirely from the property tax, since its possession affords no true criterion of the tax paying ability of its owners. If, however, it is desired to include such property for taxation, it should be required to contribute toward public revenue at a decidedly lower rate than other and productive types of possessions, and its assessment should be included in the duties of the county office whose creation has been urged above. As long as high rates are levied on this property and its return is left to the will of its owners, the incidence of its taxation will be upon the honest and the foolish, while the wise and crafty are allowed to escape.

SECTION 3—THE TAXATION OF INTANGIBLES

It has been stated above[1] that the perjury-prosecution power given to taxing officials by the present law has not succeeded in securing the

(1) See page 19.

return of intangible property for taxation. Other means have been suggested to achieve this result. Some adherents of the uniform rule have urged the increase of the existing penalty for non-return. If this property escapes now, a higher penalty cannot be expected to bring it in. Others have suggested the expedient of requiring the stamp of the taxing officials on all negotiable instruments in order to insure their validity. The result of such a policy, even were its constitutionality assured, would probably be to drive investment securities from the state. Governor Harmon, in his message to the 78th General Assembly, asked that all property coming into court should be required to prove its payment of taxes before the trial of the case and that similar proof be demanded of all heirs to property as a prerequisite of inheritance. Such provisions are at best cumbersome and unwieldy methods of attempting the impossible. Repeated attempts have been made to reach intangible property and each and every one of them has met with failure.

In 1882 Ohio attempted to achieve this result by the employment of tax inquisitors, volunteers who received 20% of the taxes collected from all the hidden property which they discovered. Within twenty years these gentlemen were paid over one million dollars from the pockets of Ohio citizens.(1) The Hon. James A. Garfield roundly denounced this system in a paper which he read before the National Civic Federation in Buffalo on May 24, 1901. He said:

> "The inquisitor law is an attempt to enforce a bad system by the infliction of severe penalties. It has proved not only useless but demoralizing. Demoralizing because it has produced contempt for the law and put a premium upon dishonesty."(2)

The use of inquisitorial methods to reach intangibles has always resulted in disaster. It was the opinion of Governor Harmon in 1911 that the existing law permitted taxing officials to require of banks the disclosure of individual deposit accounts and he vetoed a section of the tax measure presented that year which prevented this practice on the grounds that it amounted, in effect, to the exemption of intangibles from taxation.(3) The united opposition of the banks and building and loan associations of the state secured the inclusion in the Warnes Law in 1913 of a specific provision forbidding the invasion of the privacy of the records of financial institutions.(4) The taxation of intangibles can not be made to work by any expedient yet devised by the mind of man. Those who support it in principle are at one in their inability to provide an adequate means to make it operative in practice.

One argument which has been repeatedly advanced during the history of the property tax in Ohio, is that the classification and the taxation of intangible at a lower rate than tangible property would secure its return. In fact, the tax history of Ohio is largely the story of the struggle between the proponents of this measure, who are called "Classificationists," and the adherents of the existing rule who are

(1) Foote, A. R., Taxation Work and Experience in Ohio, p. 6.
(2) Ibid.
(3) 102 O. L. 260.
(4) 103 O. L. 779-80.

known as "Uniform Rulers." The owners of moneys and credits and the good citizens who believe that the partial exemption of intangible property from taxation would increase the portion of taxes which it pays, have rallied to the banner of classification. Realty owners, on the other hand, with those who believe uniformity to be a cardinal requirement of justice, have furnished a strong opposition. Continual attempts have been made by the former group to write a provision for classification into the constitution of the state. In 1889, 1891 and 1893 proposed classification amendments failed of adoption. In 1902 provision was made that the adoption of an amendment might be secured by its inclusion in the ballots under the head of a party ticket. A classification proposal so endorsed by the Democratic party was defeated in 1903. In 1908 classification received 337,747 affirmative and 95,867 negative votes at an election, but failed of adoption because of the existing constitutional provision that the amendment must receive a majority of all the votes cast in order to pass. The effect of this requirement was that all the ballots not voting on the amendment were counted against it.(1)

In 1912 the Constitutional Convention, in providing for the adoption of the initiative and referendum in Ohio, due to the strong rural opposition to classification and the single tax, made special exceptions in these two cases,(2) but provided for the initiation of constitutional amendments by petition or by the general assembly. An amendment so initiated in 1915 met with failure as had its predecessors. In 1918 an initiated classification amendment finally succeeded in passage, but was declared unconstitutional and irregular by the supreme court because of imperfections in its text and in the method of submission.(3) The general assembly in 1921 wrangled over the classification question for an entire session. The uniform rulers and the classificationists practically came to a deadlock. Many conflicting proposals were made, but nothing in the way of constructive legislation was accomplished. Finally the governor exercised his prerogative and closed the session.(3) He subsequently selected a special joint taxation committee of the legislature, which worked without compensation during the entire summer and returned a recommendation favoring classification. Their suggestion, however, was never made into law. In the 84th general assembly the even division of power still remained. The Cornstalk Club, composed of representatives of the rural districts, met in the assembly hall behind closed doors in March, 1922, demanded the enforcement of the uniform rule, and created a permanent organization for the purpose of fighting classification.(5) Other substantial groups have declared for a war to the death on the uniform rule. The power between these groups has reached such an even balance in Ohio that the program of neither offers to the taxpayer any considerable hope for constructive legislation.

On the whole, the hopes which have been based upon the idea of classification are ill-founded. It is scarcely probable that a lower rate on property which need now pay *no* taxes, will cause it to pay *some* taxes.

(1) Foote, A. R., "Taxation Work and Experience in Ohio," p. 5.
(2) Ohio Constitution, Article II, Section 1e.
(3) The State, ex rel Greenland vs. Fulton, 99 O. S. R. 168.
(4) Laylin, C. D., "The Ohio Tax Situation."
(5) The Ohio State Journal, March 7, 1922.

In fact, the experience of Kentucky, of Pittsburgh and of Connecticut would indicate that no larger percentage of taxes is paid by intangible property under classification than under the uniform rule. Ohio without classification gets 8% of her revenue under the general property tax, from this type of possessions. Connecticut, with classification, gets but 1.7% of her revenue, from this source.(1) The failure of classification in this regard is well explained in the popular phrase that you "can't legislate men honest." The effect of classification might be to continue for real estate and the public utilities the heavy burdens which they already bear, while stocks, bonds and other intangibles would be granted a low rate by an indulgent legislature. Thus, the highest taxes might be paid by the least productive and the lowest taxes by the most productive property in the state. Another evil result of such a system would be to send lobbyists flocking to Columbus, petitioning and bludgeoning the legislature to secure favorable rates under the classified levy. As Professor Fairchild of Yale University told the Ohio real estate men in their Columbus convention, "Classification is at best a weak-kneed compromise. It still has its advocates, but, in my opinion, it is destined to prove a broken reed."(2)

The taxation of intangibles cannot be made to work. If it could be, it should not be, because it leads to double taxation and, as such, is fundamentally unjust. The taxation of stocks and bonds taxes both the actual wealth and the evidences of the possession of that wealth. It hits corporate investors with twice the force that it hits all others. It is true that the stock which an individual owns in an Ohio corporation need not be returned by him for taxation, under the existing law, but if this exemption is in principle desirable, there is no logical reason why it should not be extended to all corporate securities. The taxation, both of the mortgage and the property which secures it, is most iniquitous since it forces the borrower to pay taxes on the amount of his debt through the contribution of a higher rate of interest than is charged on other holdings. The taxation of intangible property is both unjust and impracticable and should be totally abandoned.

SECTION 4—THE TAXATION OF INCOMES

The revenue which is given up by the abandonment of the taxation of intangibles should be supplied by a state income tax. This tax, because of the possibility of introducing progression into its rates, and because of the impossibility of shifting it to others, conforms more nearly than any other to the principle of taxing according to ability to pay. It forces upon the taxpayer a realization "that the money spent by the government, comes out of his own pocket. It makes him a critic of legislative extravagance and unwise public expenditure."(3) It will operate as an effective check upon the lavish expenditure of public money. The tax on incomes, in addition, will compel a contribution to public revenues from taxpaying abilities which have no property basis, and do not now contribute. It has been urged that the imposition of such a tax would

(1) S. E. Forney at the Tax Association Convention, January 19, 1922.

(2) "The Future of State and Local Taxation," Bulletin, National Tax Association, December, 1921, pp. 78-9.

(3) Ibid, p. 76.

be unfair because, while the recipients of non-property income paid but one tax, property holders would be required to pay taxes both upon their property and on the income which it yielded to them. Such taxation is, however, quite in line with the prevailing opinion that funded incomes are able to, and should in justice, bear a larger part of the public expense than those incomes which result from personal exertion. As a matter of fact, the institution of an income tax, provided there were no increase in government expenditure, would probably reduce the burden of taxation on land because of the contribution made to the public revenues by the hitherto escaping tax-paying ability which is represented by intangible property. The real estate owner would find his burden lessened rather than increased following the imposition of the tax on income.

The form of state income tax urged in the National Tax Association Report on A Model System of State and Local Taxation (1) would require the adoption of a purely personal tax, not applicable to business concerns and affecting the entire net income of the individuals taxed. Minimum exemptions should be low; rates should be progressive; and the rate applied to incomes of any given size should be uniform, regardless of the source from which they are derived. The administration of the tax should be placed in the hands of the state government and collections should be on the basis of controlled individual return and not at the income source. Laws substantially embodying these provisions are in operation in Wisconsin, Massachusetts, and in New York state, where in 1920 the income tax yielded over $34,000,000, for the maintenance of government activities.(2)

The Ohio Constitution made possible the adoption of an income tax in the state.(3) In 1919 the special taxation committee of the 83rd general assembly recommended the passage of such a measure.(4) The law which was presented by them provided for the taxation of the personal incomes of all residents of the state, granting minimum exemption of $500.00 to unmarried and $1,000.00 to married individuals with a $200.00 exemption for each dependent. The administration was to be through the central tax commission, which was to be given power to secure information on incomes at their source. The county auditor was to serve as assessor and the right of appeal from his findings to the common pleas court was granted. One-fourth of the revenue resulting from this tax was to go to the state government and the remaining three-fourths to the political subdivisions. This measure, when presented to the legislature, failed of passage by a narrow margin because of the opposition of the financial interests to its requirements for the provision of information at the source. It was feared that this requirement would uncover hitherto hidden intangible property and drive moneys and investment securities from the state. The administration of an income tax law can only be made successful by granting a certain amount of inquisitorial

(1) Report of the Committee Appointed by the National Tax Assn. to prepare a Model System of State and Local Taxation, Proceedings of the National Tax Association, Vol. 12.

(2) Bulletin of the National Tax Association, Vol. 7, No. 7, p. 219.

(3) Article XII, Sec. 8, Ohio Constitution.

(4) Report of the Special Joint Taxation Committee of the 83rd General Assembly, pp. 147-165.

power to the taxing officials. Such a law, as a consequence, can never achieve adoption until the uniform rule has been abrogated and the pretense of taxing money and credits as property has been abandoned.

The income tax offers a possible solution of the existing stale-mate between the classificationists and the uniform rulers in Ohio. As long as power remains so equally divided between these groups, victory for either one of them is an impossibility. Classification bears the stigma of repeated defeat; powerful groups are opposed to it in principle and there is little possibility of its eventual adoption. The income tax affords a way out and offers a logical and equitable solution to the Ohio tax tangle.

SECTION 5—RATE LIMITATION

The point upon which all Ohio tax authorities seem to be in substantial agreement today, is that the Smith Law, as it stands, should be abolished. There is nothing sacred about the ten and fifteen mill limits on tax rates. They were purely arbitrary provisions created to meet a situation not permanent in its nature. Today they are totally ignored. The interior limits as fixed by the law were poorly adjusted. The rates granted to townships were larger than were necessary to provide for their needs. The rates granted to school districts and municipalities were, on the other hand, far too low. The law erred furthermore in fixing a uniform limit for all taxing districts, urban and rural. Such a limit assumes that the requirements of all districts for funds are uniform, an assumption which is in truth quite contrary to facts. The whole structure of limits, internal and external, with exceptions temporary and permanent, should be wiped off the statute books and a clean start made.

Rate limitation is not bad in principle. It should afford a curb to local extravagance. It should encourage the return of property for taxation at its full value. It should operate as a legitimate protection to the taxpayer upon the change in the assessment of property from a low to a high valuation and secure him from subsequently burdensome tax charges. If it is accompanied by a provision allowing the citizens of any community to exceed the fixed rates by granting their consent at the polls, its effect is merely to insure them against unjustly burdensome levies and to place upon their own shoulders the decision as to the extent to which they are willing to go in supporting public activities. Such a rate limit measure makes possible local self-government and as a consequence is essentially democratic and fair.

The failure of the Smith Law has not been a failure of the principle of rate limitation. It has come because of the inclusion of debt levies within the tax limits, because of the easy avenue of escape from its provisions offered by the method of increasing bonded indebtedness and finally because of the absolute inadequacy of the system provided for assessment administration. Ohio need not give up the attempt to limit tax rates. The institution of new rate limits with proper debt restrictions and adequate assessment procedure affords a legitimate protection to taxpayers. Mr. Forney of the Tax Commission suggests that new limits of 12 mills for rural and 15 mills for city districts would provide for all essential revenue needs. Representative Taft of Cincinnati would put these limits at 15 and 18 mills, respectively. The Ohio Associ-

ation of Real Estate Boards is now proposing a fifteen mill limit, to be exceeded only by a two-thirds popular vote, with a one mill limit on the state government, as a "home rule" amendment to the state constitution.(1) It is questionable whether rate limitation is important enough to require its inclusion in the constitution, but with the provision of popular exception to it by vote, there can be little disadvantage resulting from its passage.

The interior limits fixed by the Smith Law have nothing to recommend them. They but add to the complexity of tax administration and afford no necessary protection to taxpayers which is not already granted them by the maximum limit. The Ohio Tax Association's recently proposed guaranteed minimum limits to each political subdivision are in reality unnecessary provisions. The difficulty confronting the tax administration is not that of securing adequate revenue for the conduct of government functions, but rather the problem of fairly and wisely distributing the burden of levy. Guaranteed maximum limits, encouraging full return of property if accompanied by adequate assessment administration may afford the solution to the problem of distribution, which is really the heart of the tax difficulties of the state.

SECTION 6—DEBT LIMITATION

One more step on the road to sane local finance in Ohio is the protection of the Griswold Debt law from the assaults of special interests. The bonds of self-sustaining public utilities are now exempt from the limits provided by this measure. Attempts may be made in the future to secure the exemption of other securities for one purpose and another. Lobbies may be formed to exert pressure on the legislature for such exceptions until the Griswold Law becomes a mere shadow of its former self as is the Smith Law of today. In order to prevent the occurrence of such a calamity it is the part of wisdom to write the provisions of this measure into the constitution of the state. This is a reform which was urged by the special legislative committee in 1919. It has been framed today in an amendment which the Ohio Association of Real Estate Boards will have presented to the voters of the state at the next election.(2) Its adoption as a part of the fundamental law is imperative if Ohio is to be saved in the future from the type of frenzied finance which has been her lot for the past decade.

SECTION 7—LOCAL BUDGETS

A final thing to be desired is greater efficiency and greater economy in government administration. Democratic government is inevitably wasteful, but it is the part of wisdom to reduce this waste as far as is humanly possible. To this end there should be introduced in Ohio thoroughgoing budget systems for every taxing district. The present budget is not a budget, but rather a hazy estimate of future needs. The inauguration of business-like methods of finance in the conduct of public affairs should be the final step which would insure to the people of the state an equitable distribution of the tax burden in future years.

(1) Cleveland Plain Dealer, April 29, 1922.
(2) Ibid.

The answers which have been here given to the Ohio tax dilemma may be summarized as follows: the introduction of greater administrative efficiency in the assessment of property for taxation, the possible elimination of some tangible personal property from the operation of the property tax, the absolute abandonment of the taxation of intangibles as property, the institution of a tax on incomes to reach tax paying ability which is not touched under the present system, rate limitation as a guarantee to taxpayers but to be freely exceeded at their will, debt limitation written into the fundamental law permanently to place political units upon a cash basis, and a budget system for every taxing district. The adoption of any one of these measures will not suffice. They must eventually be accepted as a whole if sound financial methods are to be introduced into the conduct of the public business of Ohio and the citizens of the state are to make just payment for collective activities according to their respective abilities.

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